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SMALL BUSINESS SUBCONTRACTING PROGRAM
(Part 5)

HEARING

BEFORE THE

SUBCOMMITTEE ON SBA AND SBIC AUTHORITY, MINORITY ENTERPRISE AND GENERAL SMALL BUSINESS PROBLEMS

OF THE

COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

SECOND SESSION

WASHINGTON, DC, JUNE 28, 1984

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SMALL BUSINESS SUBCONTRACTING PROGRAM

(Part 5)

THURSDAY, JUNE 28, 1984

House of Representatives, Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems, Committee on Small Business,

Washington, DC.

The subcommittee met, pursuant to notice at 10 a.m., in room 2359-A, Rayburn House Office Building, Hon. Parren J. Mitchell (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN MITCHELL

Mr. Mitchell. The subcommittee will resume its hearings on the small and small disadvantaged subcontracting program, to determine the extent of compliance by both the prime contractors and the Government with their responsibilities under Public Law 95-507.

Last week, the subcommittee heard testimony from NASA activities and some of their prime contractors. I started that hearing by reciting NASA's reputation for innovative ideas and methods for subcontracting to small and small disadvantaged businesses.

However, the testimony presented last Thursday by witnesses representing the Kennedy and Johnson Space Centers was not only disappointing, but disturbing. I hope that today's witness from NASA headquarters can explain some of the very upsetting testimony we heard.

Perhaps these witnesses can explain why the largest prime contractor to the Government was allowed to violate the reporting requirements mandated under law; perhaps they can tell us why their subordinate activities accept plans which have no goals, or why they released contracts even though the prime contractors have submitted clearly inadequate subcontracting plans for small and small disadvantaged businesses.

Perhaps they can tell us why we have what, in my opinion, is a blatant disrespect and disregard for the law.

What we heard last Thursday amounted to a blatant disrespect and disregard for the law.

The Department of Energy did not deliver its testimony until Monday morning, the Department of Education not until Wednesday, June 27, 1984, even though both agencies had over 6½ weeks to prepare for these hearings and deliver their testimony by the requested deadline of 3 p.m. on Friday, June 22, 1984.

I hope this is not a prelude of the type of concern or respect we will find these Departments have for this law.

I sincerely hope, however, that the Federal agencies who have witnesses scheduled to present testimony at today's hearing will show us that somewhere within the Federal Government there is someone who is putting forth an effort to comply with the law.

The House is in session at 10 a.m. this morning, and we will have to move rather rapidly. From time to time, there will be votes, I regret to say, and I will go only when there is an important vote.

When I have to vote, we will take a 15- to 20-minute recess, and I will come right back. I expect other members of the subcommittee to join us as they get the opportunity.

We are scheduled to try to recess the House of Representatives tomorrow around 3 p.m. The House was in session until 12:30 a.m. last night. We are moving a lot of legislation and, therefore, we might be interrupted frequently for votes. But either I will take a brief recess, or if the other members show, we will try to rotate so that one will stay while the other go to vote and come back.

Our lead-off witness this morning is Mr. Stuart Evans, Assistant Administrator for Procurement at the National Aeronautics and Space Administration.

Thank you very much for taking the time from your schedule to be here.

TESTIMONY OF STUART J. EVANS, ASSISTANT ADMINISTRATOR FOR PROCUREMENT, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. **Evans**. With your permission, I would like to summarize my formal statement, with the request that it be incorporated in the record in toto.

Mr. **Mitchell**. Without objection, the entire statement will be submitted for the record.

Mr. **Evans**. I would like to commence by saying that NASA is primarily a research, development and demonstration agency, not a production agency; that in 1958, when it was established under the Space Act, it was formed as a partnership of Government, scientific, educational, and industrial sectors of this country to achieve a mission.

It has not changed from that basis in the 25 years of its existence.

The fact that NASA was founded on that basis has influenced its character in many ways. For example, the reliance of the Agency on the private sector to carry out its mission is best demonstrated by the observation that 87 percent of all the funds appropriated by the Congress for the conduct of aeronautic and space activities flows to the private sector through the procurement operation in one form or another. So, we are highly dependent upon the private sector for the execution of our mission.

We do very little R&D in-house. We are staffed on that basis, and we operate on that basis. Conversely, of the equivalent staffing, we need for the daily conduct of our operations, close to 60 percent of that staffing for institutional operations and the like have been procured through support service contracts.

In summary, our operation is predominantly a private sector one, rather than a Government one in the classic sense. Our experience in small disadvantaged business subcontracting goes back at least 3 years prior to the enactment of Public Law 95-507 in 1978.

With respect to the initiatives that you referenced in your opening statement, we started an initiative at the Kennedy Space Center in 1975. Our objective at that point in time was to achieve the goal of 20 percent minority business subcontracting in major construction programs at the cape over a 3- to 4-year period, undertaken in connection with preparations for the space transportation era, the space shuttle era. In that program, we set goals in our solicitations for 20 percent of the subcontracting to be performed by the winner, to be done by minority business firms. This was 3 years before the enactment of Public Law 95-507. During the period 1975 through 1979, we achieved approximately 58 percent of all subcontracting in construction to be either small or disadvantaged businesses. Our initial objective was 20 percent.

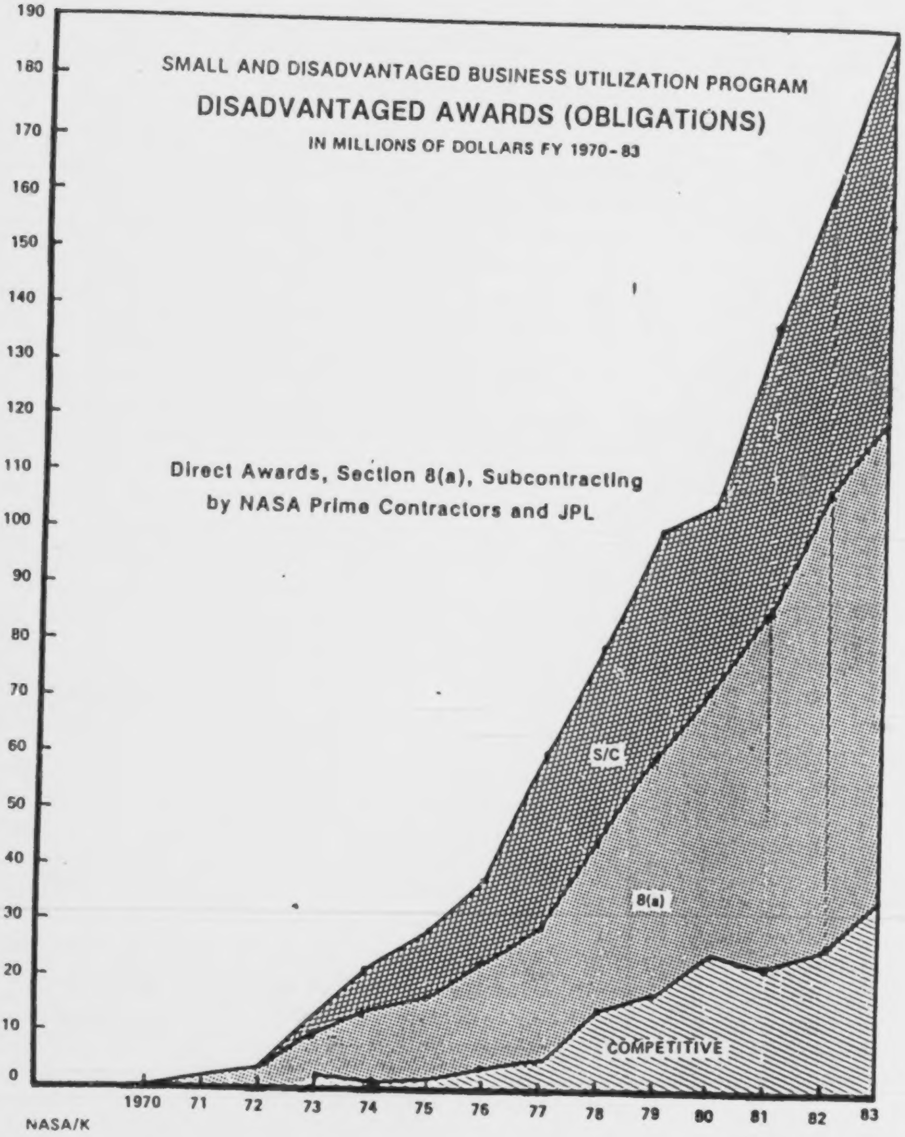
In 1977, I testified before this committee on a bill then known as H.R. 567, which was referred to as the Parren Mitchell bill. Present at that time was counsel, Tom Trimboli. I made a series of suggestions with respect to the enactment of that legislation, many of which were acted on in the House.

The bill that, of course, emerged from conference and was passed was not the bill that the House passed. That bill curtailed some of our activities. We are no longer in a position to establish goals in our solicitations. As a result of that legislation, we were put in a position, as you know, of negotiating a plan on essentially a sole-source basis with the successful offeror. This removed a lot of the teeth in our ability to negotiate.

The subcontracting performance of NASA in that period of time shows a downward turn, but we have since recovered from that. I might, for example, if I may, illustrate this by showing you this chart, which I would request be placed in the record. It will illustrate where this agency has come since the inception of the section 8(a) program in 1970.

[The chart referred to above follows:]

[The enclosed chart illustrates awards to disadvantaged firms for fiscal years 1970-83 through direct awards by NASA, section 8(a) awards, and subcontracting by NASA prime contractors and the Jet Propulaion Laboratory.]



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Mr. **Mitchell.** Without objection.

Mr. **Evans.** For fiscal year 1979, you will notice, for subcontracting there is a turndown in the period 1978-79. That coincides with the enactment of Public Law 95-507.

You will also note that in my judgment, we have recovered rather well from that since then. The chart before you shows the record of the agency from 1970 to 1983 with respect to its performance on introducing section 8(a) firms into the competitive stream, which is its objective and which shows a steady increase in the awarding of 8(a) contracts by the agency. It also shows a continual up ward trend in the subcontracting efforts.

I might say, with respect to subcontracting, our records indicate that the percentage of subcontracts awarded to disadvantaged business, while it had not grown in what I would call in a dramatic fashion, it has not lessened. The trend is upward, not down. I speak to that in terms of expressing it as a ratio of minority business subcontracting to total subcontracting.

In 1980, we approached the Small Business Administration with an offer to execute a memorandum of understanding on what we call a special initiative, rather similar to the pilot program then being performed by the Army. Since that program did not fit us and our requirements at all, we are not a production agency, our objective was to see if we could not introduce minority business firms into the higher technology efforts of the agency. That agreement was signed in 1980, and has been extended through the present fiscal year.

So far, we have not made the progress I would wish, but we do have six contracts that we have executed under this initiative. That progress is displaying to me the objectives we sought in that program which basically were to introduce minority firms into the more high technology efforts of the agency.

In 1972, commencing with the orbiter contract with Rockwell, we introduced the concept of award fees with respect to performance on minority business subcontracting. We also have incentives in the external tank program by Martin-Marietta. We have had some experience with incentives, both good and bad, and I would be happy to address those later on.

The reason I cite these things is to indicate that we have been looking for apportunities for small and disadvantaged businesses. We have been examining and undertaking what I would say are initiatives, in many cases, in advance of legislation, and certainly so in the case of Public Law 95-507.

We have tried, and we have had a measure of success and failure, just as we have in all other operations, and I only have to refer to this week's delay of the shuttle launch to indicate that, Mr. Chairman.

I suppose I would sum it up by saying, we try. We don't lose enthusiasm. Where we stumble, we attempt to pick ourselves up and find out why we stumbled and proceed. This is true of the agency as a whole.

In your letter of invitation, you asked us a series of questions and I have summarized that data in the formal statement, so I won't address it here. I would say, on balance, in light of your previous comments, I feel that our record in this area is not bad. It can be better, but it is not bad. We have applied the resources we have in light of reducing staffing. We are not a large agency, 21,000 civil servants, that is all, to carry out this program. There are roughly 75 percent scientists and engineers in our professional staff.

We have been characterized as an agency that takes on the most audacious programs in the most conservative manner. Our hallmark is not one of failure. Our hallmark is one of pulling together and achieving what no others have done before.

We have attempted in some ways to do this, and put our stamp, at least within the character of the agency, on this particular program.

That would conclude my summary, Mr. Chairman.

[Mr. Evans' prepared statement follows:]

Prepared Statement of Stuart J. Evans, Assistant Administrator for Procurement, National Aeronautics and Space Administration

We are pleased to appear before this Subcommittee to describe NASA's strong commitment to small and small disadvantaged business utilization. Before discussing the small and small disadvantaged business subcontracting program which is the subject of today's hearings, let me say a few words about NASA and how we carry out our mission. NASA is a research and development agency which is responsible for scientific advances in aeronautics and space technology. Since our inception, we have carried out our mission with a three-party team made up of Government, industry, and academia. NASA, probably more than any other agency, conducts the vast majority of our business through the procurement process. More than 87 cents out of every dollar obligated by NASA in fiscal year 1983 flowed through the procurement process either in contracts, grants, or cooperative agreements with business firms, nonprofit organizations, or academic institutions. Thus, in a real sense, as I tell my scientist and engineer colleagues, NASA is more a procurement organization than a research organization.

As part of our procurement orientation, NASA continues to maintain its longstanding commitment to small and small disadvantaged business. We have a record of steadily increasing prime and subcontract awards to small and small disadvantaged business. Since fiscal year 1975, NASA's prime and subcontract awards to small businesses have totalled over $7 billion, increasing from $381.8 million in fiscal year 1975 to $1.15 billion in fiscal year 1983. In addition, during this period our prime and subcontracts to small disadvantaged businesses totalled over $1 billion. These awards have risen from $27.6 million in fiscal year 1975 to $189.1 million in fiscal year 1983. Based on results for the first half of the fiscal year, it appears that in fiscal year 1984 we will again exceed our prior year's performance for both small and small disadvantaged businesses.

Our subcontracting record with small and small disadvantaged businesses shows even greater growth than that for prime contracts. Since fiscal year 1975, NASA prime contractors have awarded $3.7 billion in subcontracts to small businesses. In fiscal year 1975, subcontracts to small businesses totalling $165.8 million were awarded. By fiscal year 1983, this figure had grown to $664.9 million. With respect to small disadvantaged businesses, $371.7 million has been subcontracted since fiscal year 1975. The annual level of small disadvantaged business subcontracts has grown from $11.4 million in fiscal year 1975 to $68.4 million in fiscal year 1983. It appears that fiscal year 1984 performance should again exceed the levels reached in the previous year.

In accomplishing this record of performance, NASA has, in conjunction with the Small Business Administration, established ambitious goals for prime contracts to small, small disadvantaged, women-owned, and labor surplus area businesses as well as for subcontracts with small businesses. In each of these areas in fiscal year 1983, NASA prime and subcontract performance exceeded the established goal. Our record in fiscal year 1983 and earlier of meeting or surpassing the vast majority of established goals clearly demonstrates NASA's commitment to these programs. Also, in working with the Small Business Administration, we have developed a special initiatives program for identifying high technology requirements for award to firms participating in the Small Business Act's Section 8(a) Program.

We have long been a leader in developing new approaches to encourage small and small disadvantaged business participation in NASA's programs. For example, since 1971 NASA has had an active program to encourage small business participation in NASA contracts. This effort included the use of procurement plans and small business/small disadvantaged business plans to identify direct and subcontract opportunities. Our early efforts also involved break-outs for small and small disadvantaged businesses of portions of procurements that were not capable of full accomplishment by small or small disadvantaged businesses.

As we indicated in our testimony before the House Committee on Small Business on June 23, 1982, NASA efforts in small and small disadvantaged business subcontracting predated Public Law 95-507. In 1975, three years prior to that statute's enactment, NASA initiated a pilot program in which we set goals for small and small disadvantaged business subcontracting in the Space Shuttle construction programs then commencing at the Kennedy Space Center, Cape Canaveral, Florida. Our goals, as indicated in our solicitations, were to achieve a 20% small and small disadvantaged business participation in construction subcontract efforts. To this end, we required submission of summary subcontract plans with competitive proposals and took such plans into account in evaluation and award of prime contracts. In 1976 we extended this program to Agency construction and support services contracts. As a result of this specific initiative for the years 1975 through 1979, small and small disadvantaged businesses received 58% of $110.9 million in construction and support service subcontracting efforts. It should be recognized that Public Law 95-507 now precludes us from establishing our goals in solicitations.

NASA also took a leading role in the use of incentive contracts to encourage aggressive performance by our prime contractors in small and small disadvantaged business subcontracting. We have found the use of incentive contracting to stimulate small and small disadvantaged business subcontracting to be particularly effective in a production-type environment where realistic baselines can be calculated from prior experience. While there are some limitations on the use of incentive contracts in a research and development environment, NASA believes that incentive fee contracts can be effectively used in appropriate circumstances to stimulate small and small disadvantaged business subcontracting.

A primary example of the use of incentive contracting to stimulate small and small disadvantaged business subcontracting is the contract between NASA's Marshall Space Flight Center and Martin Marietta Corporation for expendable external tanks for the Space Shuttle Program. The small and small disadvantaged business subcontracting plan negotiated for the external tanks contract established goals and the contractor's approach for accomplishing these goals. The plan also contained an incentive fee arrangement that would provide the contractor with an incentive fee for subcontracts awarded in excess of the negotiated goals. The estimated planned subcontracting costs, small business goals, and small disadvantaged business goals are periodically adjusted to provide additional incentive for exceptional subcontracting performance. Achievement under the small and small disadvantaged business subcontracting achievement portion of the incentive fee mechanism for the external tanks contract has exceeded expectations. The contractor has been awarded an incentive fee of $303,000 for exceeding the small business goal and an incentive fee of $82,000 for exceeding the small disadvantaged business goal.

In addition to our incentive contract activities, small and small disadvantaged business subcontracting achievement is clearly a consideration in award fee contracts at NASA. A significant example is our contract between NASA's Johnson Space Center and Rockwell International Corporation for the Shuttle Orbiters. Areas of emphasis are established at the beginning of each 6-month award fee period. The amount of award fee dollars available varies from period-to-period based on the work to be performed. In order to place emphasis on small disadvantaged business, performance in small business subcontracting is not evaluated for award fee purposes. Small disadvantaged business subcontracting is specified with other items in the area of subcontract and material management practices, plans, and controls. Approximately 1% of the award fee available for each award fee period is allocated to small disadvantaged business subcontracting achievement. Goals for each award fee period are proposed by the contractor prior to the outset of that period, based on the contractor's anticipated total subcontract activity for the period. NASA evaluates the contractor's proposed goals and negotiates the goals on which Rockwell's small disadvantaged business subcontracting performance is evaluated for that award fee period. In all award fee periods to date, small disadvantaged business subcontracting has exceeded the percentage goals in the contract measured against the total actual subcontracting accomplished during the evaluated period. From 1972-1984, subcontracting dollars for this contract for small and small disadvantaged business totalled $554 million and $60 million, respectively.

We have also had positive experiences with small and small disadvantaged subcontracting relative to our consolidated procurements. The small and small disadvantaged business community initially raised concerns that these contract consolidation efforts would adversely impact small businesses. However, our experience does not bear this out. For example, for the Base Operations contract at NASA's Kennedy Space Center, the small and small disadvantaged business share of the base operations functions has increased since the consolidation, when both prime and subcontract dollars are considered. A significant factor contributing to this accomplishment is the attention given by NASA and the prime contractor to the negotiation and administration of the small and small disadvantaged business subcontracting plan for this contract.

The following responses are provided to each of the specific questions raised in the Subcommittee's letter of May 4, 1984.

QUESTION NO. 1. WHAT ARE THE NUMBER AND DOLLAR VALUE OF CONTRACTS AWARDED DURING THE LAST THREE YEARS WHICH CONTAINED SUBCONTRACTING PLANS?

Response. The following data are provided in response to this question for fiscal years 1982 and 1983. With respect to fiscal year 1981, the subcontracting plan reporting system was only partially implemented. Only incomplete data are available for this fiscal year.

Fiscal Year	Number of Contracts	Dollar Value (millions)
1982	155	$1,272.6
1983	126	$2,134.2

QUESTION NO. 2. WHAT ARE THE NUMBER AND DOLLAR VALUE OF CONTRACTS WHICH DID NOT CONTAIN SUBCONTRACTING PLANS, BUT WHICH WERE REQUIRED BY LAW TO CONTAIN SUCH PLANS? WHAT CORRECTIVE ACTION WAS TAKEN REGARDING THESE AWARDS? HOW MANY CONTRACTS HAVE BEEN MODIFIED TO INCLUDE PLANS?

Response. The following data are provided in response to this question for fiscal years 1982 and 1983. With respect to fiscal year 1981, the subcontracting plan reporting system was only partially implemented. Only incomplete data are available for this fiscal year.

Fiscal Year	Number of Contracts	Dollar Value (millions)
1982	18	$31.3
1983	27	$70.5

Of these 45 contracts, 37 were contracts in which the contracting officer had determined that there were no subcontracting opportunities. Three were awarded to firms outside the United States, and five were contracts in which plans were inadvertently omitted at the time of award but which have subsequently had subcontracting plans incorporated into the contract.

QUESTION NO. 3. HOW MANY PLANS DID SBA REVIEW DURING THE LAST THREE YEARS? WHAT WAS THE NUMBER FOUND DEFICIENT AND DOLLAR VALUE OF EACH?

Response: NASA does not maintain independent statistics on SBA reviews. We only have information from SBA reports to Congress on the total number of subcontracting plan reviews made by SBA Government-wide. These reports indicate that the following reviews were made by the SBA.

SBA Subcontracting Plan Reviews

Fiscal Year	Preaward Reviews	Post-Award Reviews
1981	5837	6846
1982	6414	6812
1983	5671	8214

With respect to plans found deficient by the SBA, the SBA reports to Congress indicate that the following NASA subcontracting plans were found deficient.

Fiscal Year	Number of Contracts	Dollar Value of Each Contract ($000)
1981	3	$ 27,706 5,861 731
1982	1	674
1983	1	8,716

The concerns of SBA with the small and small disadvantaged businesses subcontracting plans for these five contracts have subsequently been resolved by NASA to the satisfaction of SBA.

QUESTION NO. 4. GIVE THE TOTAL DOLLAR VALUE OF ALL SUBCONTRACTS AWARDED DURING THE LAST THREE YEARS UNDER PRIME CONTRACTS CONTAINING PLANS AND THE DOLLAR VALUE AND PERCENTAGE OF SUBCONTRACTS AWARDED TO SMALL AND SMALL DISADVANTAGED BUSINESSES.

Response: The requested data are as follows:

	FY 1981*	FY 1982	FY 1983
	(Millions of Dollars)		
Total Subcontracted	$1,472.1	$1,646.2	$1,886.9
Small Business	474.9	523.5	669.5
Small Disadvantaged	50.7	54.9	68.9
	(Percent of Total)		
Total Subcontracted	100.0%	100.0%	100.0%
Small Business	32.3	31.8	35.5
Small Disadvantaged	3.4	3.3	3.7

* FY 1981 data were obtained in part from NASA Form 524 and in part from SF 295 data. Data for the other fiscal years were obtained from SF 295's.

QUESTION NO. 5. GIVE THE TOTAL NUMBER AND DOLLAR VALUE OF ALL PRIME CONTRACTS AWARDED WHERE THE PRIME WAS FOUND TO BE IN NON-COMPLIANCE AND ANY REMEDIAL ACTIONS TAKEN INCLUDING DEBARMENT PROCEEDINGS.

Response: We have identified no instances of total non-compliance with subcontracting plans by prime contractors. There have been a few instances in which a contractor has not submitted Standard Form 294, Subcontracting Report for Individual Contracts, in a timely manner. In these situations, the contracting officers requested the contractors to provide the required reports. There has also been one case in which a possible violation of a subcontracting plan was identified. NASA subsequently determined, and the Small Business Administration concurred, that the contractor was in fact in compliance with the plan. Our representative from the Kennedy Space Center discussed this issue with you in more detail last week.

QUESTION NO. 6. DESCRIBE ANY OUTREACH PROGRAM THAT NASA MAY HAVE TO ASSIST SMALL AND SMALL DISADVANTAGED BUSINESSES INTERESTED IN SUBCONTRACTING WITH NASA'S LARGE PRIME CONTRACTORS.

Response: NASA has an aggressive outreach program to assist small and small disadvantaged businesses in identifying subcontracting opportunities. Outreach activities are primarily conducted by the Small Business Specialists at our eight field installations and the Jet Propulsion Laboratory. A major portion of our effort is directed toward making small and small disadvantaged businesses aware that many prime and subcontracting opportunities exist throughout NASA. This is done, in part, through participation at numerous procurement conferences throughout the country. For example, in fiscal year 1984 we estimate that NASA will be represented at 70 conferences, with a total attendance of approximately 50,000. We also individually or jointly sponsor smaller-scale conferences at or near our various installations. In these meetings, we describe NASA's prime and subcontracting opportunities, provide literature summarizing our small business programs, and encourage small business attendees to visit the nearest NASA installation for an in-depth individual counseling session.

At these counseling sessions, specific guidance is provided regarding likely subcontracting opportunities which match a firm's capabilities. Small businesses are also provided with a listing of prime contractors and a company point of contact. In some cases, a joint venture with other small businesses may be suggested if it appears that a firm is lacking in key areas of expertise. In addition, it is suggested that small and small disadvantaged businesses review the Commerce Business Daily to obtain information on subcontracting opportunities. Government contracting and subcontracting procedures are also discussed.

The NASA outreach program also includes more general activities such as providing source lists for planned large procurements to small and small disadvantaged businesses. In a similar vein, industry briefings or pre-proposal conferences on major procurements are frequently conducted and a list of all attendees is circulated to each company represented at the briefing. NASA also makes its complete source list available to large companies seeking additional small and small disadvantaged subcontractors.

Finally, we are continually experimenting with novel outreach techniques. For example, at our Kennedy Space Center a program has begun in cooperation with the Small Business Development Centers at local colleges, which entails individual briefings on campus with small and small disadvantaged businesses. Under this arrangement, the NASA Small Business Specialist counsels firms which have been identified and invited to the center by the Small Business Development Centers. The intent of this program is to reach a different audience that otherwise might not be aware of prime and subcontracting opportunities with NASA.

QUESTION NO. 7. GIVE THE NUMBER AND DOLLAR VALUE OF PRIME CONTRACTS AWARDED WHERE THE GOALS RECITED IN PLANS WERE NOT MET. WHAT IS THE AVERAGE GOAL ATTAINMENT FOR BOTH SMALL AND SMALL DISADVANTAGED BUSINESS?

Response. NASA had 10 contracts with a total dollar value of $34.8 million for which the small and small disadvantaged subcontracting goals recited in plans were not met. This amount represents less than 1% of the Agency's total annual procurement budget. The average subcontracting goal attainment for small business is 184.1% and for small disadvantaged business is 222.7%.

QUESTION NO. 8. WHAT WERE YOUR SUBCONTRACTING GOALS FOR THE LAST THREE FISCAL YEARS? WERE GOALS MET? IF NOT, EXPLAIN.

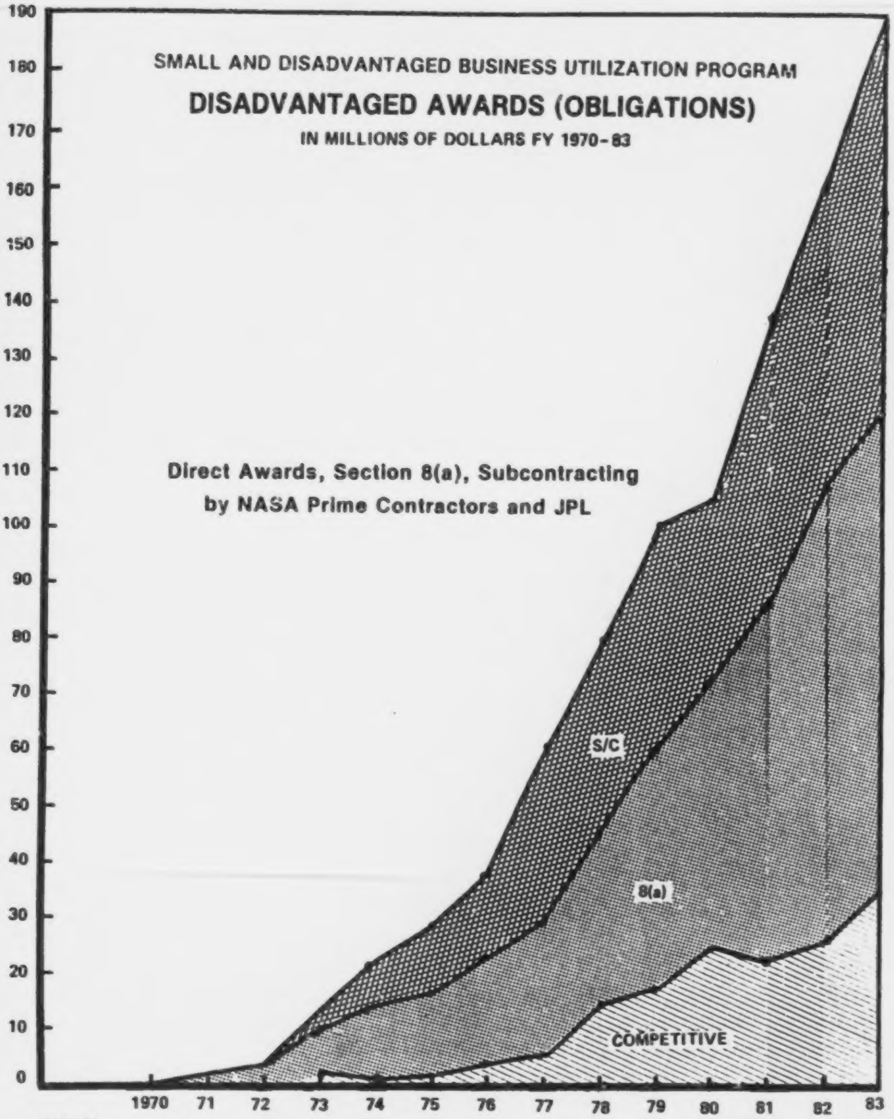
Response. The following table summarizes NASA's subcontracting goals and performance for fiscal years 1981, 1982, 1983, and the first six months of fiscal year 1984.

NASA SMALL BUSINESS SUBCONTRACTING GOALS/ACCOMPLISHMENTS

	Goal (Percentage of Total Subcontracting)	Accomplishment (Percentage of Total Subcontracting)
FY 1984 (first six months)	36.7%	37.4%
FY 1983	35.0%	35.6%
FY 1982	33.0%	31.8%
FY 1981	41.6%	32.2%

In fiscal years 1981 and 1982, while we did not meet the percentage subcontracting goals, we did increase our small business subcontracting dollars in comparison to the immediately prior year, with increases of approximately $44 million in 1981 and of approximately $49 million in 1982. In fiscal year 1983, NASA exceeded its percentage of small business subcontracting goals. Based on our performance during the first six months of fiscal year 1984, we anticipate that we will also meet our small business subcontracting goal for this year.

With respect to actions taken in response to recommendations in House Report 97-956, NASA submitted comments on each recommendation in a February 15, 1983, letter to the Committee on Small Business. At that time, we expressed our concerns regarding the resource implications and feasibility of certain of the recommendations. We withheld further action on the report pending feedback from the committee on our comments on the recommendations.



SMALL AND DISADVANTAGED BUSINESS UTILIZATION PROGRAM

DISADVANTAGED AWARDS (OBLIGATIONS)

IN MILLIONS OF DOLLARS FY 1970-83

Direct Awards, Section 8(a), Subcontracting by NASA Prime Contractors and JPL

NASA/K

NASA HQ K82-1081 (1)
REV. 12-19-83

Mr. MITCHELL. Thank you very much, and thank you for submitting very comprehensive testimony to us. You mentioned your special initiative to try to get high-technology firms, 8(a) firms, into the business. How does this program work? Is there some sort of agreement between you and SBA?

Mr. EVANS. Yes, a memorandum of understanding between the Administrator of NASA and SBA, was executed on April 22, 1980. It was patterned on the pilot program with some significant differences, because of the difference in character of the types of efforts we were seeking to achieve.

We took the initiative in going to the SBA to identify in some cases high technology requirements and frequently 8(a) firms that we felt were quite competent to undertake these with help they could obtain from the SBA, whether in the form of business development expense or other assistance.

In this case, we dealt directly with the headquarters of the SBA and not the regions because of the uniqueness in the program. We have executed six contracts, which are working out very well. It was a new adventure for us, and to the SBA also.

I have read the hearings on the Army pilot program. We are not a production agency, but this was an effort that was undertaken in the spirit of full cooperation and has worked very well. It is a modest one, but it is an example.

Mr. MITCHELL. When did that program begin?

Mr. EVANS. The memorandum of understanding was executed in April 1980.

Mr. MITCHELL. To date, you have awarded six contracts?

Mr. EVANS. The first contract we were able to award under that program was about 5 months after the agreement was executed with the SBA. We followed with about six others.

Mr. MITCHELL. Total of seven, then?

Mr. EVANS. Total of six. We have one we are exploring right now. It has worked well. We have proceeded with this program cautiously because we wanted to succeed, not fail.

Mr. MITCHELL. You mentioned the Martin-Marietta contract for expendable, external tanks in the Space Shuttle Program. Let me talk about that just a little bit. What I asked the staff to do was request these contracts from DOD and NASA and identify some primes, and obviously, Martin-Marietta was one. With each of the plans that Martin-Marietta submitted to you, we found some problems. Under the contract, NAS 9-15999, we found that the plans submitted to you had no goals whatsoever in it. Would you like your staff to join you?

Mr. EVANS. If it is the one I have in mind, Mr. Chairman, I believe, through our fault when it was reproduced, a page was left out in submitting it to the committee.

The page that was left out does in fact have goals. Mr. Trimble, when he testified on behalf of Martin, differed with your observation that it had no goals.

Mr. MITCHELL. We pulled the plan, the actual plan that was submitted and the plan contained no goals.

Mr. EVANS. A May 1980 Martin-Marietta plan and through our fault, page 11 of that plan was omitted from the reproduction without our knowledge.

Mr. MITCHELL. Do you have a copy of that?

Mr. EVANS. I do. It does indeed show goals.

Mr. MITCHELL. All right, that was just a slip-up on that one.

Mr. EVANS. It was a reproduction fault of ours, Mr. Chairman.

Mr. MITCHELL. Let's look at another contract with Martin-Marietta, NAS 83-0300, which is for the external tank project. On that one, this was a plan submitted to you in 1974 which contained absolutely no goals at that time.

Since that time, there has been no update on the plan for goals insofar as we can determine.

Mr. EVANS. The plan was written in 1974. This was 4 years prior to the enactment of Public Law 95-507. Mr. Chairman, in this case, 4 years before the enactment of that statute, we were requiring plans of some form. This is probably one of the earliest plans you have seen, 4 years before the enactment of the law we are discussing today. This plan and the introduction of incentives in 1972 on the Shuttle Program itself, are examples of what we have undertaken on our own initiative 4 years prior to the statutory requirement. This particular plan involves the development, test and evaluation of the external tank. It was an R&D project.

The character of the program was largely set at that point in time. It has been reviewed. It was reviewed when this statute was passed.

Mr. MITCHELL. Excuse me. When was the last review of that contract?

Mr. EVANS. It is reviewed each time the contract is either modified or extended for new work over $500,000.

Mr. MITCHELL. When was the last time it was reviewed, last year?

Mr. EVANS. I don't have that information here.

Mr. MITCHELL. The contract is still ongoing?

Mr. EVANS. The contract is coming close to being completed because we are in production of the external tank now.

Mr. MITCHELL. I am sympathetic to what you are saying in terms of your activities prior to the enactment of the law, but it just seems to me that once the law went into place, then that contract should have been covered under Public Law 95-507.

Mr. EVANS. The amendments for new work certainly would have.

My point is simply this, Mr. Chairman: In the development of that external tank, just as in the Shuttle, just as in the solid rocket motors, there has been untold testing and evaluation of components that go into it over a period of time, probably 4 years prior to this plan, in the development of the tank.

We do not change materials, processes, or sources lightly in this program. We have found that a material change will ricochet throughout the whole transportation system, and we find source changes and process changes will do the same thing.

In some cases, the qualification of sources for the amount of production we have is inordinately expensive because we are dealing with the most complex flight system man has ever devised.

We do, indeed, examine the subcontract structure on modifications to the contract in excess of $500,000, whenever they occur. I cannot speak to you on this development contract as to how frequently that occurred or when the last time was, because it is phasing out. The production contract we now have also has goals in it. It is a different contract, very different schedule under this contract. In fact, I think that production contract shows incentives in it.

Mr. **Mitchell.** Yes.

Mr. **Evans.** You are dealing with a plan that we on our own initiative executed at the time that external tank program was in process.

Mr. **Mitchell.** I commend you for your initiative. I would still argue that once the law went into effect, once it was signed by the President, then it seems to me that that contract was covered under the new law.

Mr. **Evans.** I think without any question, that statute required us to examine the status of the development contract and make a careful determination of the potential for subcontracting opportunities for work to that contract.

Mr. **Mitchell.** OK.

Would you them submit to this subcommittee your last review of this contract?

Mr. **Evans.** We shall.

[The information referred to above follows:]

Contract NAS8-30300 was for the design, development, test, and evaluation for the Space Shuttle External Tanks. At the time of enactment of Public Law 95-507, the vast majority of the work on this contract was underway. While any subsequent modifications to this contract for new work over $500,000 would have been reviewed for possible subcontracting opportunities, there have been no new work modifications above the threshold.

By the time Public Law 95-507 became effective, emphasis had shifted to the production phase of the program. Specific incentive provisions for subcontracting with small and small disadvantaged businesses were included in the production contract and related facilities contract in order to stress the importance of the these statutory requirements. As new work is added to these contracts, the goals and incentives are adjusted to reflect the new work.

Mr. **Mitchell.** I am particularly concerned about small business and small disadvantaged businesses, goals, and percentages.

Mr. **Evans.** We shall.

Mr. **Mitchell.** These contacts with Martin Marietta cause me some trouble. I think an incentive feature is good. That is healthy. Maybe it encourages many large corporations to go out and seek small businesses, and small disadvantaged businesses, that ordinarily they would not.

My problem is, and it is on page 12 in your statement, you say the average subcontracting goal attainment for small business is 184.1 percent, that is with small business and for small disadvantaged businesses, it is 222 percent.

Since some, if not all of your contracts have an award feature, are you concerned that the goals are set unrealistically low in order to get the incentive fee to the prime contractor?

Mr. **Evans.** That is always a matter of concern. You mean "lowball" the goal and make the maximum fee, that is, make it a self-fulfilling prophecy?

Mr. **Mitchell.** Sure.

Mr. **Evans.** Of course, we are concerned with that. We are concerned with setting targets on cost performance or anything else. We want to set goals at a level that provides an incentive on the one hand, that is not so high that it discourages serious efforts and yet is not so low that it is self-fulfilling. That is a measure of balance.

You asked for performance under a series of contracts. The only time you know what the performance on a contract is is when it is completed. We cited 10 contracts in here. They were completed. Their average age is probably 5 to 6 years. If I take 5 or 6 years from 1984, I get back to 1979, 1978. This is when we were negotiating goals under those contracts.

There is no other way you can tell how the performance emerges until the contract is complete. Final results are not measured on a fiscal year basis.

Mr. MITCHELL. Excuse me just a minute. During the course of the contract, you can't tell the final achievement of goals until a contract is completed, but obviously during the negotiating stage, you at least discuss some goals, don't you? If you discuss them at that stage, it is possible that you discussed them in 1979, and then you look at it in terms of 1981?

Mr. EVANS. Of course, they are reviewed and when they are modified in excess of $500,000, goals are introduced and sometimes changed.

The Johnson Space Center, in addressing the application of award fees, last week stated that they reviewed those every 6 months. It depends very much on the nature of the contract.

The point I was making here in those 10 completed contracts was the date of origin, and at that time, Public Law 95-507 was a rather new statute.

Yes, we observed goals, progress under these goals in our contracts as they proceed, but the fact that there is a percentage goal of total subcontracting in a contract doesn't mean that in any one particular fiscal year, which is the basis upon which we report to the SBA and to you, that variance from that goal is going to be significant.

Mr. MITCHELL. It doesn't necessarily mean that.

Mr. EVANS. Not at all. How a subcontractor contracts, how he applies his resources, builds his materials, how he acquires his subcontract services and the like, is a function of time over the product he is building. In some years, it may be way below the goal; some years, maybe an assessment against a total goal may be on a straight-line basis. It may look like he is not achieving the goal, and in other years, the contractor may appear to overachieve. In these, yes, there is overachievement and the inference could be drawn that they are set too low at the outset.

Maybe they were. There is a real balance and not just in setting subcontract goals, but a real balance in setting targets and the like. To establish adequate motivation, to achieve goals, to avoid making them self-fulfilling, and, on the other hand, setting goals too high to discourage incentive. We learn in the process.

Mr. MITCHELL. Let me ask you this then: Suppose you came across a case where in your considered best judgment, the prime had set the goals unrealistically low?

In your opinion, if a prime contractor, during the negotiation stage, knowingly and willingly misrepresents the subcontract awards to small businesses aiming for a larger fee during contract performance, would this constitute fraud against the Government?

Mr. EVANS. Misrepresented data to us?

Mr. MITCHELL. That is right.

Mr. EVANS. If it is knowingly, willingly a misrepresentation, of course.

Mr. MITCHELL. That constitutes fraud against the Government?

Mr. EVANS. It could. Hypothetically, it is.

Mr. MITCHELL. Although I am not sure it really is hypothetical in all these cases, but let me ask about your contracting officers, the guys who do the implementation of the program. How do you evaluate them?

Is their performance vis-a-vis small and small disadvantaged businesses, is that considered a critical performance standard for these contracting officers?

Mr. EVANS. There are 900 contracting personnel in NASA. None of the contracting officers at any of the eight centers works for me, nor do I supervise them in any sense.

Under the Civil Service Reform Act, each supervisor and each employee sets their own goals, their own performance standards with respect to key objectives and continuing management responsibilities under the law.

Mr. MITCHELL. You are not able to respond to that, then?

Mr. EVANS. I can't respond to what the Kennedy Space Center does with their 100 procurement people any more than I can with the Johnson, with their 200-odd people. I do know in some cases, these are key objectives, but it is a matter of setting standards by a supervisor with his employee.

Mr. MITCHELL. The only reason why I thought you might take a fleeting, tangential interest in this because you testified about achieving goals and so forth. While it is not under your guise, you expressed such a keen concern about utilization of small and small disadvantaged businesses, even before Public Law 95-507, I thought maybe you might ask someone every once in a while.

Mr. EVANS. I do. We discuss this matter quite frequently, and I wouldn't characterize my interest as a fleeting and tangential interest.

Mr. MITCHELL. You have no knowledge whether or not this is part of the performance evaluation.

Mr. EVANS. I know in some cases those goals are a part of the performance, but I cannot speak to some 900-procurement people.

Mr. MITCHELL. That is a little different answer, then. You at first simply said you couldn't really respond, because there were all these procurement people. Now you say in some instances, you do know, is that correct?

Mr. EVANS. I do know, because I inquire. They are part of my performance standards.

Mr. MITCHELL. All right.

Go back to page 7 of your testimony. You state the five contracts let by your agency. On page 7, you indicate that five contracts let during the period 1982 to 1983 did not contain subcontracting plans, even though by law such plans were required.

How is it that you still have those situations, even when Public Law 95-507 was on the book for years prior to these violations?

Mr. **Evans**. The five we have reference to, four were in 1982, and one was in 1983, we examined them in terms of where they were. We probed, and I would not characterize these situations as willful.

We erred, being perfectly frank. In five cases out of how many, there was an oversight. They have all been corrected subsequently.

Mr. **Mitchell**. Each of them now has a plan with goals?

Mr. **Evans**. Yes.

Mr. **Mitchell**. Could we get a copy for those five, the plan for the utilization?

Mr. **Evans**. I can present it to you.

Mr. **Mitchell**. No, no, later on.

[The information referred to above follows:]

(i)

Exhibit E
NAS5-27326

NASA/GSFC
SMALL BUSINESS AND SMALL DISADVANTAGED
BUSINESS SUBCONTRACTING PLAN

Contractor: Bendix Field Engineering Corporation
Address: One Bendix Road, Columbia, Maryland 21045
Contract Number: NAS5-27326
Item/Service: TDRSS Phase-In Contract

The following is hereby submitted as a Subcontracting Plan for the Phase-In Contract Period (August 15, 1982 through November 14, 1982) of the TDRSS Operations:

1. (a) The total estimated dollar value of all planned subcontracting to all types of business concerns under this phase-in contract is $579,850.

   (b) The following percentage goals (expressed in terms of a percentage of total planned subcontracting dollars) are applicable to the phase-in contract cited above.

      (i) Small Business Concerns: 27.0% of total planned subcontracting dollars under this contract will go to subcontractors who are small business concerns.

      (ii) Small Disadvantaged Business Concerns: 0.2% of total planned subcontracting dollars under this phase-in contract will go to subcontractors who are small business concerns owned and controlled by socially and economically disadvantaged individuals. This percentage is included in the percentage shown under 1. (b) (i), above, as a subset.

   (c) The following dollar values correspond to the percentage goals shown in (a) above.

      (i) Total dollars planned to be subcontracted to small business conerns: $156,646.

      (ii) Total dollars planned to be subcontracted to small disadvantaged business concerns: $1,000. This dollar amount is included in the amount shown under 1. (b) (i), above as a subset.

   (d) The following principal products and/or services will be subcontracted under this phase-in contract, and the distribution among large, small, and small disadvantaged business concerns is as follows:

Phase-In Contract Period

Material/Service	Subcontractor	Business Classification	Subcontract Value
Engineering Support	Stanford Telecommunications Incorporated	Small	$ 150,016
Computer Operations	Computer Sciences Corp.	Large	423,204
Materials & Labor	Wise Painting and Wallpapering Co.	Small	5,630
Miscellaneous	Various	Small Disadvantaged	1,000

Note: Subcontract values are estimated for purpose of this plan.

SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN

6.1 BENDIX

6.1.1 GENERAL

Bendix is fully cognizant of, and in accord with, the intent of NASA's efforts in small business and small disadvantaged business programs. Upon confirmation that Bendix has been chosen as the successful offeror for the TDRSS Operations program, we will submit a comprehensive TDRSS subcontracting plan in consonance with all the requirements in RFP No. 5-43077/183. This plan will be based on the Bendix Field Engineering Corporation Subcontracting Plan for Small, Disadvantaged and Women-Owned Businesses. We include a sectional outline of the BFEC plan as part of our summary plan.

6.1.2 SUBCONTRACTING PLAN CONTENT

To comply with Public Law 95-507 and other procurement regulations relating to women-owned businesses, the Bendix Field Engineering Corporation has incorporated the salient features of its previous Small Business and Minority Business Subcontracting Programs, and recent Government subcontracting requirements into one composite program, documented in the Bendix Field Engineering Corporation Subcontracting Plan for Small, Disadvantaged and Women-Owned Businesses. Section 1 of the plan describes those activities of the Corporation which apply to all Bendix prime contracts and subcontracts affected by PL 95-507 and procurement regulations related to subcontracting to women-owned businesses. Subsequent sections of the plan describe Bendix' specific subcontracting plans for an individual prime contract to which PL 95-507 applies. Section 2 generally covers the base period of a prime contract, with an additional section added to the plan with the exercise of each option period by the Government.

6.1.3 SECTION 1: THE BASIC SUBCONTRACTING PLAN

Section 1 provides direction and guidance to all Bendix operations concerning the methodology of Bendix' compliance with the requirements of PL 95-507. In addition, Section 1 provides the following:

- A reiteration of corporate policy concerning the use of small business, small disadvantaged business, and small women-owned business concerns and a reaffirmation of corporate commitment by the corporation's officers and directors.
- Separately stated percentage goals for the corporation's overall use of small business and small disadvantaged business concerns.
- The assignment of responsibility for the administration and coordination of the corporation's Subcontracting Plan and a description of the assignees' duties.
- Procedures necessary to give practical effect to the corporation's Subcontracting Plan.
- Consideration of small, small disadvantaged, and women-owned business concerns during "make or buy" planning sessions.
- The accumulation of small, small disadvantaged, and women-owned business source lists.
- Training and motivation of corporation personnel concerning the specific requirements of PL 95-507 and the corporation's plan for meeting those requirements.
- Incorporation of the corporation's Small Business and Small Disadvantaged Business Plan's goals and objectives into the corporation's Performance Planning and Review System (PP&RS).

- Identification of corporate policies which incorporate and promulgate the requirements of PL 95-507 and regulations pertaining to women-owned business concerns.
- The accumulation of subcontract solicitation, bid, and commitment data, and the preparation of reports.
- Flow-down of appropriate prime contract clauses, where applicable.
- A subcontractor subcontracting plan review and approval procedure.
- The establishment of a separate Small Business and Small Disadvantaged Business Plan for each prime contract, where a plan is required, with separately stated percentage goals for the use of small business and small disadvantaged business concerns.
- Identification of the organizations with which the corporation shall affiliate or support as an affirmative action pursuant to accomplishing the Subcontracting Plan's objectives.
- A small, small disadvantaged, and women-owned business concern assistance program.
- Periodic plan performance reviews.
- Cooperation with Government representatives conducting studies, surveys, and audits.
- Continued coordination and cooperation with public and private organizations concerned with small, small disadvantaged and women-owned business assistance programs.

6.1.4 SECTION 2: DISCRETE SUBCONTRACTING PLAN

Section 2 describes the discrete subcontracting plan for the base period of a prime contract for which the Subcontracting Plan is written. Subsequent sections describe Subcontracting Plan(s) for the option period(s) of the prime contract, if any. The following information is contained in the contract-unique section(s):

- Brief background information on the program.
- If needed, a brief discussion of the make or buy decision-making rationale for this Subcontracting Plan.
- Identification of the individuals responsible for the performance and reporting of the Subcontracting Plan.
- Orientation and training of program personnel.
- Source lists to be maintained by the program procurement office.
- Specific records to be maintained by the program.
- Reports.
- Personnel motivational program.
- Prime contract Subcontracting Plan subcontractor, commodity, and cost schedule.
- Subcontracting Plan statistical data.
- Program management commitment.
- Subcontracting Plan review and approval.

6.1.5 THE BENDIX FIELD ENGINEERING CORPORATION STATEMENT OF POLICY AND EXECUTIVE MANAGEMENT COMMITMENT

Competition is one of the cornerstones of the American free enterprise system. Thousands of small business concerns, small businesses owned by disadvantaged persons, and women-owned businesses help keep competition alive and their taxes help finance the Federal Government. It is desirable and right that these business enterprises have the opportunity to share equally in the Government contracts and subcontracts financed through public taxation. For many years, the Bendix Field Engineering Corporation has dedicated its resources to a firm and effective Small and Disadvantaged Business Program to promote additional purchases from small, small disadvantaged, and women-owned businesses by major corporations. The efforts of the corporation to increase purchases from these businesses have not only been applied internally (within Bendix), but have also extended beyond the corporation through the corporation's active membership in and support of the National Minority Supplier Development Council and its network of regional purchasing councils. Enlightened corporation managers know that success for these entrepreneurs is critical to the economic vitality of the nation and that fostering the development of small, small disadvantaged, and women-owned business is not in any sense "welfare." The purchase of goods and services from these entrepreneurs is not only good corporate citizenship, it is also sound business. Through such efforts, private industry clearly demonstrates that in the American free enterprise system, it is still possible for these entrepreneurs to survive and thrive. The goals and objectives of Bendix' Small Business Subcontracting Program for its many and varied operations have been consolidated and documented in the Bendix Field Engineering Corporation's Subcontracting Plan for Small, Small Disadvantaged, and Women-owned Businesses, an important part of Bendix' overall operation. Every manager's and supervisor's cooperation and contribution toward efficiently and effectively meeting the plan's objectives are expected and greatly appreciated by the corporation. Therefore, we, the officers and directors of the Bendix Field Engineering Corporation, hereby reaffirm the corporation's dedication and commitment to achieving the goals and objectives of the plan by the following endorsement of this statement of policy:

M. Weingarten
Chairman of the Board
and President

J. P. Mead
Vice President
and Controller

A. H. Ford
A. H. Ford
Vice President
Employee Relations

K. A. Hill
Director and
Project Manager, MOSP

H. J. Engle
Vice President and
Director of Operations

D E Smith
D. E. Smith
Vice President and
Program Director, STDN

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R. J. Kemp
R. J. Kemp
Director
Safety and Security

M. L. Gotwalt
M. L. Gotwalt
Director
Information Systems

C. D. Pinsker
C. D. Pinsker
Vice President and Director
Contract Administration

D W Ginavan
D. W. Ginavan
Director of
Pasadena Operations

6.1.6 BENDIX COMPOSITE SMALL AND DISADVANTAGED BUSINESS GOALS

The Bendix Field Engineering Corporation has established the following overall commitment goals for the purchase of goods and services from small business and small disadvantaged business concerns during fiscal year 1982 (October 1, 1981 through September 30, 1982) and fiscal year 1983 (October 1, 1982 through September 30, 1983).

Small Business		Disadvantaged Business	
FY 82	FY 83	FY 82	FY 83
52%	52%	5.0%	5.0%

The corporation's percentage goals are a composite of all individual contract and noncontract goals, some of which exceed the corporate goals and others which do not. Bendix does not plan a small business or a disadvantaged business set-aside program for the corporation. However, set-aside programs may be implemented on individual contracts. Bendix fully intends to achieve its stated corporate and contract goals, while still retaining the flexibility necessary to efficiently perform its many prime contract obligations and meet its operational objectives.

6.1.7 ASSIGNMENT OF RESPONSIBILITIES

6.1.7.1 Plan Administrator (Description of Duties)

Responsibility for the administration of all of the corporation's Subcontracting Plans for Small, Small Disadvantaged, and Women-owned Businesses is assigned to the Purchasing Manager, Stephen D. Morton. Mr. Morton reports directly to the office of the President. As both the Corporation's Purchasing Manager and Plan Administrator, he has maximum visibility and control of the subcontracting function.

As Plan Administrator, the Purchasing Manager has the following duties and responsibilities:

- Establish the corporation's small and disadvantaged business goals based upon the corporation's historical performance and information concerning the size and content of anticipated materials and services requirements from individual Program Managers.

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- Prepare the corporation's basic plan for achieving established small business and small disadvantaged business goals for review and approval of the corporation president.
- Distribute the corporation plan.
- Review and approve individual prime contract plans for small businesses and small disadvantaged business subcontracting to ensure that such plans conform to the requirements of the corporation's basic plan, PL 95-507, and regulations related to subcontracting with women-owned business concerns.
- Represent the corporation in matters related to the corporation's Subcontracting Plan for Small, Small Disadvantaged and Women-owned Businesses.
- Monitor the performance of the small business and small disadvantaged business coordinators toward achieving the corporation's goals.
- Collect and collate plan performance data.
- Prepare and distribute corporate reports.
- Direct the activities of the Small Business and Small Disadvantaged Business Plan Coordinators.

6.1.7.2 Subcontract Plan Coordinators (Description of Duties)

Members of the Central Purchasing Department are assigned the additional duties and responsibilities of Corporate Small Business and Small Disadvantaged Business Coordinator on an as required basis. Duties and responsibilities in this function are as follows:

- Coordinate implementation of the corporate plan with Program and Proposal Managers.
- Assist individual Program Managers in preparing contract subcontracting plans.
- Participate in make or buy planning sessions.
- Train operations personnel in the requirements of PL 95-507, related regulations, and the corporation's plan for meeting these requirements.
- Review corporation solicitations to ensure that small, small disadvantaged, and women-owned business concerns have the maximum practicable opportunity to compete, consistent with the efficient performance of contract obligations.
- Notify management of any programs that are not meeting specific contract goals.

6.1.7.3 Proposal Manager (Description of Duties)

Mr. D. E. Smith has been selected by the corporation to direct the TDRSS proposal in response to NASA's Request for Proposal. In respect to Bendix' Small and Disadvantaged Business Subcontracting Plan, Mr. Smith was responsible for the following:

- Selecting those elements of materials and services to be procured from an outside source in conjunction with the Purchasing Department.
- Acting as Chairman of the Subcontract Source Selection Committee.

6.1.7.4 Program Manager (Description of Duties)

Performance of TDRSS Program Subcontracting Plan, in the event Bendix is selected for contract award, will be the responsibility of Mr. D. E. Smith who is also the proposed TDRSS Operations Manager. He will be responsible for:

- Cooperating with the Purchasing Department's Subcontracting Plan administrator in the selection of elements of work suitable for subcontracting to small and disadvantaged

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businesses, consistent with the accepted TDRSS Subcontracting Plan's goals and the efficient performance of the TDRSS contract.

- Providing technical or management assistance that may be required by qualifiable small, small disadvantaged, or women-owned business subcontractors and potential subcontractors.
- Reporting contract plan performance data for submission to the administrative or procuring Contracting Officer, as appropriate, through the cognizant Bendix Contract Administrator.
- Establishing individual goals, consistent with the contract plan, for appropriate subordinates through the PP&RS.

6.1.8 PLAN IMPLEMENTATION PROCEDURES

6.1.8.1 Make or Buy Policy

Bendix' make or buy policy, Management Policy 2.038, documents the corporation's practice of considering the capabilities and capacities of small business and small disadvantaged business concerns during make or buy planning sessions.

6.1.8.2 Source Identification

Bendix has established a library of directories and vendor brochures to assist its buyers in locating small, small disadvantaged, and women-owned business concerns to bid on Bendix' material and service requirements. Bendix also maintains a complete vendor source list of all current or recent suppliers, each vendor entry classified as a large, small, small disadvantaged, or women-owned business. Additionally, the corporation has taken the following affirmative actions to identify qualified and qualifiable small, small disadvantaged, and women-owned business concerns capable of submitting bids in response to the corporation's solicitations:

- Obtained source data from the National Minority Supplier Development Council's (NMSDC) Vendor Information System.
- Obtained source data from peers in the Purchasing Management Association of Baltimore.
- Obtained source data from various State and City Purchasing Departments.
- Obtained available directories from NMSDC Regional Minority Purchasing Councils located in proximity to Bendix field stations.
- Attended and supported various small and small disadvantaged business opportunity fairs, minimatchmakers, and expositions.
- Requested small and small disadvantaged business source lists from Government Procuring and Administrative Contracting Officers, when adequate source lists were not otherwise available.
- Installed a data terminal in the Purchasing Department to take maximum advantage of the source data available from the Samll Business Administration's Procurement Automated Source System (PASS).

Specific directories available to Central Purchasing Department buyers are:

	Publication	Publisher
o	Greater Baltimore Minority Purchasing Council Minority Business Directory	Greater Baltimore Minority Purchasing Council
o	Guide to Minority Suppliers - Metropolitan Washington Area	Greater Washington Business Center

Publication	Publisher
o Minority Business Directory	Maryland State Office of Minority Business Enterprise and Baltimore Minority Business-Opportunity Committee
o Directory of Minority and Female Businesses	Maryland Department of Transportation
o Directory of Black Businesses	Black Economic Research Team
o Minority Business Directory	C. C. Washington
o Try Us	National Minority Business Campaign
o Minority Business Directory	DOD Defense Logistics Agency
o Directory for Reaching Minority and Women's Groups	U. S. Department of Labor
o Indian Arts and Crafts Source Directory	U. S. Department of the Interior
o The Nation's 100 Leading Black Businesses	Black Enterprise

6.1.8.3 TDRSS Personnel Training

In addition to documenting the corporation's future TDRSS actions with respect to small, small disadvantaged, and women-owned business subcontracting, the TDRSS Subcontracting Plan will also be used as a training document in the corporation's training and orientation sessions for TDRSS Program Personnel.

Initial training for the Program Manager and his staff will be provided by the Purchasing Manager, assisted by a small business and small disadvantaged business coordinator. Members of the Purchasing Department are also available to hold additional PL 95-507 workshops during the phaseover period, if required. Followon training and orientation of TDRSS Program personnel is the responsibility of the Program Manager, normally accomplished at the beginning of each contract option period exercised by the Government. The attendees at the training and orientation sessions consist of all affected Program management personnel, supervisors, and acting buyers. Completed training and orientation sessions are reported to Bendix' executive management through the regular weekly reporting system. Documented evidence of training is maintained by the Program Manager and will be available to representatives of the contracting agency, the Small Business Administration, or other Government agency.

6.1.8.4 TDRSS Personnel Motivation

The TDRSS Program Subcontracting Plan will contain separate goals for small business and small disadvantaged business subcontracting in addition to other contractual commitments. Major goals and objectives of the corporation are incorporated in the corporation's Performance Planning and Review System (PP&RS), a management by objectives system. The TDRSS Program Manager will incorporate the Subcontract Plan goals into his personal PP&RS and also incorporate the Subcontracting Plan goals into the PP&RS of his subordinates, where appropriate. Subcontracting Plan goals are reviewed quarterly.

Use or disclosure of this data is subject to the restriction on the title page of this Proposal/Quotation.

6.1.9 SUBCONTRACTING POLICIES

6.1.9.1 Prime Contract Flow-down Clauses

All Bendix subcontracts contain the "Utilization of Small Business and Small Disadvantaged Business Concerns" clause. Subcontracts in excess of $500,000 ($1,000,000 for construction subcontract) contain the applicable clause from the prime contract, where appropriate, requiring the subcontractor to submit a Subcontracting Plan for use of small business and small disadvantaged business concerns to Bendix. Subcontracts to small business concerns are exempt from this Subcontracting Plan requirement. Potential subcontractors are advised of this requirement during solicitation. The clause "Utilization of Women-owned Business Concerns (over $10,000)" is included in all appropriate subcontracts which offer substantial subcontracting opportunities; and the clause, "Women-owned Business Concerns (over $500,000 or $1,000,000 for construction of any public facility)" is included in appropriate subcontracts expected to exceed $500,000 ($1,000,000 for construction) which offer substantial subcontracting possibilities, when these clauses are contained in the prime contract.

The Bendix Corporation's Office of the General Counsel is responsible for keeping the General Purchase Order Provisions used by the Bendix Field Engineering Corporation current with respect to the mandatory flow-down clauses required by public law and regulation. Bendix' General Purchase Order Provisions, OGC GP/AE (8/80), have been amended to incorporate the flow-down clauses required by PL 95-507 by reference.

6.1.9.2 Bid Solicitation Procedure

Small, small disadvantaged, and women-owned business concerns are included, to the extent known and practicable, in every solicitation-expected to exceed $10,000 or to which PL 95-507 applies, except for those materials or services which are available as follows:

- Customer-directed source.
- Only through large business source(s).
- From a proprietary source.
- Through a GSA contract or supply schedule.
- Through a Bendix national contract.

Bendix' Purchasing Policy 203.1, Bid Solicitation, documents this procedure.

6.1.9.3 Documentation

Bendix' Purchasing Policies 203.1 (Bid Solicitation) and 206.1 (Documentation of Procurement Transactions) summarize the data which will be reported to the Contracting Officer and other Government representatives or agencies. These reports will normally consist of standard forms 294 and 295.

6.1.9.4 Progress Payments for Small Business Concerns

Bendix' Purchasing Policy 207.2 (Progress Payments for Small Business Concerns) enables progress payments to small business concerns. Since the majority of Bendix' construction subcontractors are small or small disadvantaged business concerns, Bendix has also developed a special provision for progress payments in Purchasing Policy 212.7 (Construction Subcontracts).

Use or disclosure of this data is subject to the restriction on the title page of this Proposal/Quotation.

6.1.9.5 Evaluation of Subcontractor Small Business and Small Disadvantaged Business Subcontracting Plans

The Buyer handling the subcontract transaction is responsible for:

- Ensuring that subcontractor Subcontracting Plans are submitted to Bendix, when appropriate.
- Evaluating the subcontractor's Subcontracting Plan.
- Determining that the plan meets the requirements of the prime contract and Bendix' first-tier subcontract in every aspect.

The subcontractor's Subcontracting Plan will then be reviewed by the Purchasing Manager for final approval. Subcontractor Subcontracting Plans for the utilization of small business and small disadvantaged business concerns will be reviewed to ascertain that they address each of the following topics:

- Statement of policy.
- Separate percentage goals.
- Make or buy consideration.
- Identification of next lower-tier subcontractors.
- Identification of administrator.
- Description of administrator's duties.
- Procedures to give plan practical effect.
- Assignment of responsibilities.
- Personnel training.
- Personnel motivation.
- Source lists.
- Flow-down clauses.
- Subcontracting procurement policy.
- Subcontractor Subcontracting Plan evaluation procedure.
- Small and disadvantaged business assistance program.
- Periodic reviews.
- Reports.
- Management interest and involvement.
- Studies, surveys, and audits.
- Liaison and cooperation with Government agencies.
- Subcontracting Plan incentives.

6.1.9.6 Field Station Subcontracting Policy

The local acquisition of materials and services required by Bendix' many field stations is authorized and controlled by Bendix Purchasing Policy 229.1 (the Field Purchasing Handbook). Each field station located in an area affected by the Small Business Act has been required for a number of years to conduct a small and minority business program and to report the results of this program to Bendix' purchasing management.

~~In November 1978, the President of~~ Bendix Field Engineering ~~Corporation, Mr. M. Weingarten,~~ issued a directive to all applicable field stations requiring that each field activity contact the nearest regional Minority Purchasing Council (now the National Minority Supplier Development Council) and become a member. This practice continues in areas where the cost of a membership in the Regional Council is justified by the volume of purchases anticipated by Bendix during the year.

6.1.10 MANAGEMENT INTEREST AND INVOLVEMENT

The Bendix Field Engineering Corporation has been involved in programs designed specifically to assist small and disadvantaged business concerns for almost a decade. Bendix' executive management has a long history of dedicating the necessary resources of time, money, and materials to make Bendix' small and disadvantaged business programs truly effective in increasing the amount of goods and services purchased from small and disadvantaged business concerns by major corporations. Bendix' management interest and involvement policy statement can be found in paragraph 6.4 of this section.

6.1.11 ORGANIZATIONAL MEMBERSHIPS AND AFFILIATIONS

As a small and disadvantaged business affirmative action plan, Bendix will:

- Continue to serve on the Corporate Coordinator's Steering Committee of the National Minority Supplier Development Council.
- Continue membership in and support of the Maryland/DC Minority Supplier Development Council.
- Continue the policy of having each field station join the nearest regional Minority Supplier Development Purchasing Council where the council is in close enough proximity to make membership practicable and the cost justified by the level of anticipated purcheses.
- Continue to promote the interests of small, small disadvantaged, and women-owned businesses in the National Association of Purchasing Management.

6.1.12 BUSINESS ASSISTANCE PROGRAM

The corporation will continue to make selected members of its Purchasing, Operations, and Support Departments available to provide guidance and counseling to small, small disadvantaged, and female business persons, both at its own discretion and at the request of the Government. Counseling is available on subjects such as cost control and accounting, subcontracting opportunities, bid and proposal preparation, Government property control, terms and conditions, purchasing, and other aspects of Government prime and subcontracting. Bendix will continue to exert its influence on its major large business suppliers to join local regional Minority Supplier Development Councils.

6.1.13 REPORTS

The TDRSS Program Manager is responsible for the performance of the contract plan and the achievement of the plan's goals. The Program Manager is also responsible for accumulating station field operating fund large, small, disadvantaged, and women-owned business commitment data and reporting such data and other contract plan results to the cognizant Administrative or Procuring Contracting Officer on a quarterly basis. The Purchasing Department is responsible for consolidating commitment data and preparing summary reports to the major Federal procurement agencies.

6.1.14 PERIODIC REVIEWS

Quarterly summary reports on large, small, and disadvantaged business commitments are currently provided by the Purchasing Department to Bendix Field Engineering Corporation management and The Bendix Corporation. Performance with respect to small and disadvantaged business commitments is measured against goals established at the beginning of the year.

6.1.15 STUDIES, SURVEYS, AND AUDITS

Bendix has cooperated and will continue to cooperate with agencies of the Federal Government in the preparation of studies and surveys and during the course of audits. The Defense Contract and Administration Services Regional has issued Bendix an approval letter as a result of their review of Bendix' Small Business, Labor Surplus and Minority Business Enterprise Subcontracting Programs.

6.1.16 LIAISON AND COOPERATION WITH GOVERNMENT AGENCIES

Bendix has a long history of cooperative endeavors with various Government and Government-funded agencies engaged in improving the business posture of small business and small disadvantaged business concerns. During FY 1983, Bendix plans to participate in several workshops and seminars.

NAS 9-16528

SUBCONTRACTING PLAN

1. Contract Number: NAS 9-16528

2. Contractor Name: Purdue Research Foundation

3. Total Estimated Contract Cost: $1,776,000

4.

Percentage Goals	Total Estimated Cost of Subcontracts:	$16,305
Small Business	61% or $10,000	
Small Disadvantaged Business	0% or $ -0-	

The subcontracts covered under this plan are purchase orders to be awarded for permanent equipment (See Attachment "A").

5. Describe methods used to develop goals, including analysis of subcontracting opportunities, description of principal subcontracts, sources used to determine small business/small disadvantaged business availability, past performance in small business/small disadvantaged business subcontracting, and "make or buy" considerations.

(See Attachment "B").

6. Describe the efforts that will be taken to assure that small and small disadvantaged business concerns will have an equitable opportunity to compete for subcontracts as they pertain to this contract.

(See Attachment "B").

Attachment "A"

EQUIPMENT COSTING OVER $1,000

1 - Portable Spectroradiometer	$10,000.00

Attachment "B"

#5

The appropriate personnel within the University will perform the following duties with respect to the Subcontracting Plan for small businesses and small disadvantaged businesses:

A. Establish the Plan

B. Administer, guide, and monitor the Plan

C. Maintain liaison with the Government on matters pertaining to the Plan.

D. Ensure compliance with Government regulations pertaining to the Plan.

#5

Purdue University has had only limited prior experience in setting goals for subcontracting to small businesses and small disadvantaged businesses. These subcontracting plans are still active, and our efforts in meeting goals established in these plans cannot yet be objectively evaluated.

The following sources will be used for identifying small business and small disadvantaged businesses:

A. Office of U.S. Small Business Administration, Indianapolis, IN

B. Office of Minority Busiiness Enterprises, Indianapolis, IN

C. National Minority Business Directory

D. Indiana Regional Minority Purchasing Council

#6

To assure that small and small disadvantaged business concerns will have an equitable opportunity to compete:

A. Arrange solicitations, time for preparation of bids, quantities, and specifications to facilitate participation by such concerns.

B. Counsel and discuss subcontracting opportunities with representatives of small businesses and small disadvantaged business concerns.

C. Train and motivate purchasing personnel regarding the support of small business and small disadvantaged business concerns.

D. If an item or service to be purchased is particularly appropriate to the capabilities of small business and small disadvantaged businesses, quotations will only be solicited from these businesses (provided three or more businesses with the appropriate qualifications are known).

Source lists will be developed and maintained on small businesses and small disadvantaged businesses.

NAS9-16664

Proposal No. 82-129, 83-579 (4764)

In response to RFP No. NA

GOALS

FOR

CONTRACT AWARDS

FOR

SMALL BUSINESS

AND

SMALL DISADVANTAGED BUSINESS

The following goals have been established as the maximum practicable amount of awards to small business and socially and economically disadvantaged small business:

Potential Subcontractable amount: $ 53,245, 1.9 % of Total Contract of $ 2,797,057.

Small Business awards:

4.7 % ($ 2,500) of the total subcontractable amount of $ 53,245.

Socially and economically disadvantaged small business awards:

1.4 % ($ 750) of the total subcontractable amount of $ 53,245.

TEXAS A & M RESEARCH FOUNDATION
SUBCONTRACTING PLAN FOR SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS

Statement of Policy

The Texas A & M Research Foundation will provide maximum practicable opportunity to Small Business and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals consistent with efficient performance.

Definitions

The term "Small Business Concern" is a small business as defined in Section 3 of the Small Business Act. The term "Small Business Concern Owned and Controlled by Socially and Economically Disadvantaged Individuals" is a small business concern which is at least 51% owned by one or more socially and economically disadvantaged individuals whose management and daily business operations are controlled by one or more such individuals.

The Texas A & M Research Foundation acting in good faith will rely on written representation by its subcontractors as either a Small Business Concern or a Small Business Concern Owned and Operated by Socially and Economically Disadvantaged Individuals.

Goals

Good faith efforts require different timetables depending on the type of effort, whether directed sources are identified, the community business mix where the performance may take place, etc.

Specific goals and timetables are developed for each specific plan on a contract by contract basis and will be attached to the overall plan.

Progress in achievement of these goals will be monitored and concerned personnel will be kept informed.

Additionally, as the project progresses it may be possible, because of new data, to improve the commitment represented by the goals.

In the establishment of the goals herein, it is the intent to provide maximum practicable opportunity to Small Business and Small Business Owned and Controlled by Socially and Economically Disadvantaged Individuals for participation in the performance of its contracts.

Implementation Responsibilities

The Vice President for Administrative Services will administer the plan. As administrator, the Vice President for Administrative Services is responsible for assuring that Small Business Concerns and Socially and Economically Disadvantaged Small Business Concerns are given adequate and timely consideration in "make-or-buy" decisions and that they are given a fair chance to compete for business. Furthermore, the administrator, shall be responsible for (a) maintaining the appropriate records to document the Research Foundation's efforts to utilize small business concerns and socially and economically disadvantaged small business concerns; and (b) developing and maintaining a source list of small business concerns and socially and economically disadvantaged business concerns. This source list will be established with the aid of the Small Business Administration and through diligent efforts to seek the names and addresses of these sources so that they may be solicited for bids wherever practicable.

Records Maintenance

In addition to the maintenance of a list of potential vendors/subcontractors, adequate records will be maintained to provide the following data:

1. A list of purchase orders/subcontracts awarded to small business concerns and socially and economically disadvantaged small business concerns.

2. A list of purchase orders/subcontracts on which small business concerns and socially and economically disadvantaged small business concerns were offered an opportunity to compete.

Furthermore, the files on individual purchase orders/subcontracts will reflect when specific efforts were made to identify and award the purchase order/subcontract to a small business concern or a socially and economically disadvantaged business concern.

Compliance with Government Reporting Requirements

Insofar as pertinent to the administration of its small business and socially and economically disadvantaged small business plan, the Texas A & M Research Foundation will (i) furnish promptly such relevant reports, certificates, financial statements, and other information as may be reasonably requested by the Contracting Officer, and (ii) give the government reasonable opportunity to examine and verify its books, records, and accounts.

Flow Down to Subcontractors

All contracts exceeding $500,000 awarded by the Research Foundation shall include the Armed Services Procurement Regulations clauses 1-707 and 7-104.14 and will require the subcontractor to do likewise unless the subcontractor is a small business concern or a socially and economically disadvantaged business concern. Records shall be maintained reflecting subcontracts awarded which include this clause and the Research Foundation's contracting officer shall be notified of the names of such subcontractors.

The Texas A & M Research Foundation agrees to comply in good faith with the plan as outlined.

A.D. Rychlik, Vice President
Administrative Services

JoAnn Treat
Jo Ann Treat, Executive Vice President

John E. Flipse
John E. Flipse
President

Enclosure (1) to
SES-82-1302

NAS9-16543

SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS
SUBCONTRACTING PLAN
FOR
NASA J.S.C. PIC
(97)
PROGRAM

PREPARED BY MARTIN MARIETTA CORPORATION
SPACE AND ELECTRONICS DIVISION
March 15, 1982

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INTRODUCTION:

This plan presents Martin Marietta's approach for implementing Public Law 95-507 "Utilization of Small Business Concerns and Small Business Concerns owned and controlled by socially and economically disadvantaged individuals" the implementing Government procurement regulations for NASA J.S.C. PIC Program.

The plan features:

1) A program oriented approach;

2) Top-level program management visibility, interest, and motivation;

3) Business and technical personnel involvement at the working level.

The organization of this plan is as follows:

Section 1.0 - Subcontracting Plan Summary
Section 2.0 - Organization
Section 3.0 - Socioeconomic Administrator's Duties
Section 4.0 - Procedures and Practices
Section 5.0 - Percentage Goals
Section 6.0 - Special Efforts [illegible] Compete for Subcontracts
Section 7.0 - Subcontract "Flow [illegible]
Section 8.0 - Data Gathering, [illegible] Reporting Activities

A single Administrator will be responsible for the Small Business and Small Disadvantaged Business Subcontracting programs. He will be assisted in the monitoring and reporting by a Statistician.

1.0 SUBCONTRACTING PLAN SUMMARY

The Contracting Officer has requested Martin Marietta Corporation to submit a subcontracting plan for Small Business and Small Disadvantaged Business concerns in accordance with NR1-707.3(a). The regulation and Martin Marietta's approach to complying with the requirement is summarized below:

> Percentage goals expressed in terms of percentages of program subcontracting dollars are as follows: We have baselined of 26.0% total planned subcontracts (or purchases) from small business and for small disadvantaged business 14.5% as of the date of submittal of this plan.

Mr. Guy Gualtieri, Socioeconomic Administrator, will manage the Small Business Subcontracting Plan on this program.

Our Materiel Manual and procurement contractual documents comply fully with NR 1 707.3(a) regulation to include the utilization of Small Business and Small Disadvantaged Business Concerns as well as the inclusion of Small Business/Small Disadvantaged Business Subcontracting Plan clauses in our subcontracts.

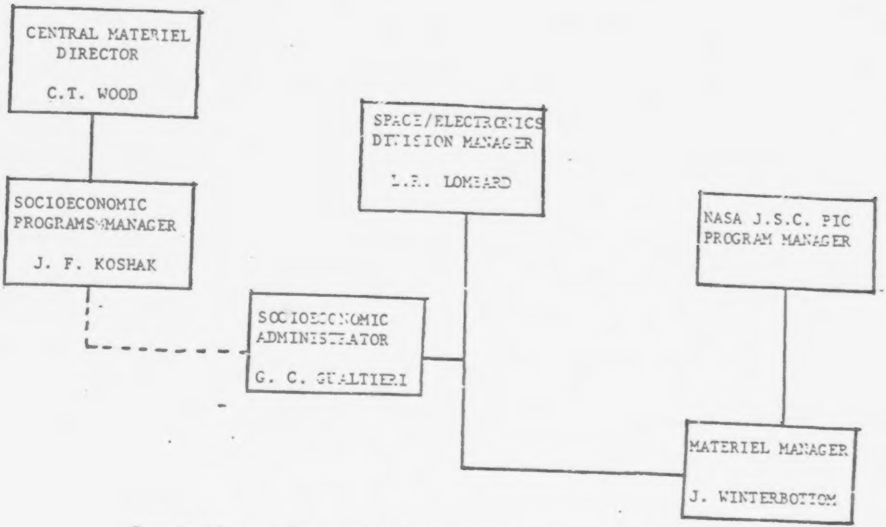
To provide an update of subcontracting program accomplishments, Martin Marietta will provide Subcontracting Report for Individual Contracts Form 294. In addition, we will cooperate in studies or surveys as may be required by the Contracting Agency or the Small Business Administration in order to determine the extent of compliance with the subcontracting plan.

Statistical data gathering routines, report formats, current small business and minority business national and regional directories, company developed source lists, buy history records, and training and buyer motivation techniques, are now available to the Socioeconomic Administrator for immediate implementation to assure compliance with the goals of this plan.

Our subcontracting plan summarized above is compliant with the RFP and our approach to implement Public Law 95-507 will be in the best interest of Martin Marietta Corporation and the Government.

2.0 ORGANIZATION:

The Small Business/Small Disadvantaged Business Subcontracting Program will be administrated by Mr. Guy Gualtieri. Figure 2.1 depicts the relationship of the Administrator with Program Management and the Denver Aerospace Space & Electronics Division Central Socioecomomics Program.


CENTRAL MATERIEL DIRECTOR
C.T. WOOD
SOCIOECONOMIC PROGRAMS MANAGER
J. F. KOSHAK
SPACE/ELECTRONICS DIVISION MANAGER
L.R. LOMBARD
NASA J.S.C. PIC PROGRAM MANAGER
SOCIOECONOMIC ADMINISTRATOR
G. C. GUALTIERI
MATERIEL MANAGER
J. WINTERBOTTOM

Dotted Lines = Functional Relationship

Figure 2-1

2.1 Program Relationship:

The Socioeconomic Administrator reports to the Materiel Program Manager for all small business/small disadvantaged business activities. His principal function will be to implement this plan and to conduct management reviews concerning the status of small business/small disadvantaged business accomplishments against the goals. The Administrator will be involved in all subcontracting activities. He will participate early in the definition of engineering and manufacturing requirements and will identify potential small business/small disadvantaged business opportunities as they are released for procurement. The Socioeconomic Administrator will participate in source development for any new procurement requirements and will assist buyers to assure that small business/small disadvantaged business concerns have fair and equitable opportunity to bid. This organizational arrangement as shown in Figure 2.1 brings socioeconomic emphasis and awareness to subcontract management and Materiel program personnel who collectively will be obligated to achieve the goals defined in Section 5.0.

To supplement program emphasis, the Administrator has at his disposal the resources of the Denver/Aerospace Socioeconomic Organization. He will maintain liaison with the Denver Aerospace Manager of Socioeconomic Programs for organizational planning, program implementation, and guidance and participation in community and industry/governmental activities.

2.2 Liaison with the Denver/Aerospace Socioeconomic Activities:

The Materiel Director, Mr. C. T. Wood, is responsible for the Denver Aerospace Socioeconomic Programs. He is the principal liaison officer and reports directly to the Vice President of Business Operations, Mr. R. G. Adamson. He is supported by a full time Manager of Socioeconomic Programs, Mr. J. F. Koshak. (See Figure 3.1)

The Socioeconomic Manager is collocated with the central department buying personnel, permitting on-the spot guidance and assistance in small business/small disadvantaged business subcontracting.

In addition, the benefits of the following tasks that are performed by the Manager of Socioeconomic Programs are available to Socioeconomic Administrators for each program:

1) Advisor to the program's Make-or-Buy Committee;

2) Maintains a central program for locating capable small business and small disadvantaged businesses;

3) Coordinates inquiries and requests for advice from small and small disadvantaged businesses;

4) Responsible for ensuring that small and small disadvantaged businesses have an equitable opportunity to compete for subcontracts;

5) Implements policy by preparing procedures for buyer's activities in soliciting and subcontracting to small and small disadvantaged business concerns;

6) Maintains a program to develop additional small and small disadvantaged business sources;

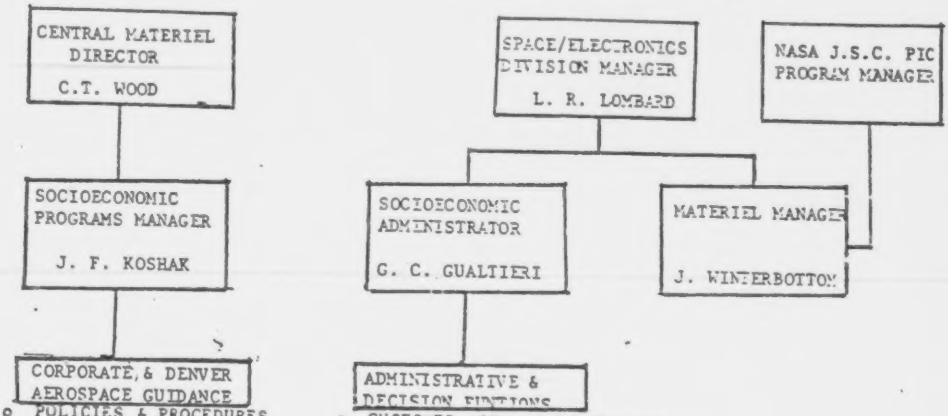
7) Maintains a library of small and small disadvantaged business source directories;

8) Maintains liaison with local SBA offices and seeks their assistance in identifying and soliciting new business sources;

9) Maintains the Denver Aerospace data gathering system to report small business/small disadvantaged business statistics to government agencies.

10) Participates in Industry/Government conferences, fairs and trade shows, TRIAD small business subcommittee activities, and Denver Regional Minority Purchasing Council Executive Board meetings.

SOCIOECONOMIC ADMINISTRATORS' PROGRAM AND SUPPORT RELATIONSHIP


CENTRAL MATERIEL DIRECTOR
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SOCIOECONOMIC ADMINISTRATOR
G. C. GUALTIERI
MATERIEL MANAGER
J. WINTERBOTTOM
CORPORATE & DENVER AEROSPACE GUIDANCE
ADMINISTRATIVE & DECISION FUNCTIONS

- o POLICIES & PROCEDURES
- o FLOWDOWN CLAUSE FORMATS
- o GOVERNMENT REPORTING REQUIREMENTS
- O STATISTICAL DATA BASE

- o CUSTOMER, SBA, & GOVERNMENT INTERFACE
- o STATISTICAL DATA BASE
- o ASSIST MAKE/BUY COMMITTEE
- o TECHNICAL ASSISTANCE TO SMALL
- o BUSINESS/SMALL DISADVANTAGE BUSINESS CONCERNS
- o CUSTOMER REPORTING
- o MONITORING OF SUBCONTRACTORS PLANS
- o PREPARE PROGRAM DIRECTIVES
  - TRAINING
  - MOTIVATION
- o MONTHLY PROGRAM REVIEWS

--DOTTED LINE = FUNCTION RELATIONSHIP

Figure 3-1

3.0 SOCIOECONOMIC ADMINISTRATOR'S DUTIES:

The Program Socioeconomic Administrator charged with the responsibility for ensuring that small and small disadvantaged businesses have an equitable opportunity to compete for subcontracts will:

1) Provide assistance in management make-or-buy and manufacture/purchase decisions.

2) Assist in the review of requirments for possible breakout of items suitable for acquisition from small and small disadvantaged business.

3) Perform subcontracting surveillance, intracompany and government liaison, data gathering, and statistical reporting on appropriate government forms.

4) Conduct small and small disadvantaged business surveys, participate in local fairs and conferences, and train and educate program personnel to be alert for small and small disadvantaged business opportunities.

Figure 3.1 shows the Administrator's involvement on the program. His specific duties are:

1) Maintain and develop small and small disadvanteged business sources.

2) Review and approve all bid lists exceeding $10,000 to assure representation of Small Disadvantaged Business.

3) Prepare directives and procedures assisting program personnel in their efforts toward attaining the percent program goals.

4) Maintain a statistical data base of all subcontract commitments in formats sufficient to report small and small disadvantaged business activities.

5) Assure "Flow down" of appropriate small and small disadvantaged business clauses in subcontracts.

6) Provide technical assistance to small and small disadvantaged businesses to participate in the response to solicitations.

7) Assist the Materiel Program Manager in the identification of small/disadvantaged sources for make-or-buy decisions.

8) Participate in the evaluation of subcontractors' Small and Small Disadvantaged Business Subcontracting Plans.

9) Conduct management reviews of program progress, percent goals achievement, and near-term plans and objectives for small business participation.

10) Establish an education and training program for program personnel whose duties and functions affect the small business/small disadvantaged business goal achievement.

4.0 PROCEDURES AND PRACTICES:

The Socioeconomic Administrator will ensure compliance with the Denver Aerospace Policies and Procedures in the administration of the Program.

This compliance is governed by:

> Martin Marietta Aerospace Policy 12-15 Subject: Procurement, Section IV: Policy Statement Supporting the implementation of the Small Business and Minority Business and Labor Surplus Area Subcontracting Programs.

The Socioeconomic Administrator will implement and assure program compliance of the following Division and Materiel Manual Policy and Procedures:

1) Martin Marietta Denver Division Policy No. PO-1-D1 Subject: MAKE-OR-BUY Decisions.

2) Standard Procedure 71.7 - SBSDB Subcontracting Plans.

3) Materiel Practice 2.255 - Small Business Procurement Program.

4) Materiel Practice 2.256 - Labor Surplus Area Procurement Program.

5) Materiel Practice 2.266 - Small Socially and Economically Disadvantaged Business Procurement Program

Copies of these documents are available upon request.

Our company-wide written policy statements, procedures, and practices demonstrate not only managements' interest to assure compliance with Public Law 95-507, but also that management recognizes a social and business responsibility to the community and to its customers.

5.0 PERCENTAGE GOALS

5.1 Small Business Awards:

The total dollars proposed for subcontracting software, purchase parts and material for the NASA J.S.C. PIC Program, is $153,397. Is is expected that $39,838 will be subcontracted to small business concerns. This realistic yet challenging dollar value represents 26.0% of the total planned subcontracting dollars.

5.2 Small Disadvantaged Business Awards:

Based upon our extensive efforts to ensure small disadvantaged business participation in our program, $22,457 is expected to be awarded to small disadvantaged business firms. This aggressive estimate represents 14.6% of total planned subcontracting dollars.

5.3 Establishing Goals:

The estimate for determining the dollar awards for Small Business/Small Disadvantaged Business includes an examination of the following subcontract-derived requirements:

1) All major acquisitions (buy items).

2) Components and breakout items identified on make item lists.

3) Manufacturing and tooling requirements.

4) Direct services and supplies.

5.4 Assessment:

The results of our assessment to seek bid opportunities for Small Business and Small Disadvantaged Business to support the Mainsite Program is shown in Table 5.1.

In developing our assessment and the associated percentages goals, we expend a considerable amount of effort in identifying small and small disadvantaged capabilities for each item of the Bill of Material. This is accomplished through review of Buy History Records, Source Manuals, Supplier Evaluation Files, and the SBA's Procurement Automated Source Selection (PASS) System.

5.5 Overhead Cost:

This plan includes all direct procurement costs for the program. It does not include overhead procurements. Our overhead procurements have in the past and will continue to be allocated on the basis of customer i.e., DOD, NASA and DOE on our quarterly total customer reports.

Table 5.1

SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACT BID OPPORTUNITIES

COMPONENT/MATERIAL	POTENTIAL SOURCE	SMALL	SMALL DISADVANTAGED
Transistors	Century Electronics Wheatridge, CO 80033	$ 6,002	
Sol Tant Cap	Alliance Electonics Albuquerque, NM 87123		348
Screws, Washers	Lawrence Engineering Irvine, CA 91503	473	
W. W. Resistors	Ultronix Grand Junction, CO 81501	10,367	
	Frank Shelly Electronic, Inc. Los Angeles, CA 90030	2,054	
Resistors	Command Electonics Farmingdale, NY 11735	1,184	
	Angstromn Precision Inc. Baltimore, MD 21264	3,511	
Teflon Cap	Component Research Co. Santa Monica, CA 90404	3,423	
Op. Amp., Comp. Cad., Transistors	Cadence Farmingdale, MA 01701		14,349
Stand Off	Technical Ceramics Chattanooga, TN 37405	4,293	
Frame Coating	Hemet Casting Corp. Hemet, CA 92343	8,148	
Board	Photo Gene St. Petersburg, FL 33712		$7,760
Miscellaneous Items	Markon Mfg Seastromn Mfg A Minor Electronic	383	
	Total	$39,838	$22,457

6.0 SPECIAL EFFORTS FOR SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS TO COMPETE FOR SUBCONTRACTS:

Special program practices described in this section have been initiated and will be sustained on the program upon award of contract. They are:

1) Provide assistance in Make-or-Buy decisions.

2) Small and Disadvantaged Business source development and assistance.

3) Bid list preparation and approval.

4) A technical/business assistance program.

5) "Match Maker" fairs and conferences.

6.1 Participation in Make-or-Buy Decisions:

Company policy PO-1-D1, Make-or-Buy Decisions, requires each program to establish a Make-or-Buy committee and have a program representative from each of the functional disciplines represented on the committtee.

To assure that adequate and timely consideration will be provided for small and small disadvantaged businesses, the Materiel Program Manager, with the assistance of the Socioeconomic Administrator is responsible for identification of Small/Disadvantaged Business resources, capabilities, and other socioeconomic data for use by the Make-or-Buy Committee.

6.2 Source Development:

An active program exists and will be maintained to develop additional small and small disadvantaged business sources. Close liaison with our Denver Aerospace Socioeconomic Manager and the local SBA offices will be maintained and their assistance will be sought in the identification and solicitation of new sources.

Furthermore, we are familiar with the SBA's mechanized source development list, called the Procurement Automated Source Selection (PASS), which provides sources when a commodity, component, or service is accessed in the SBA computer. The company plans to have a direct access terminal, when it becomes available to prime contractors. In the interim, we make use of the system through telephone requests to the Region VIII SBA PASS Coordinator.

6.3 Bid List Approvals:

Procurement procedures require that all subcontract packages in excess of $10,000 contain an approved bid list. It is the Program policy, that bid lists contain at least one small business and small disadvantaged business concern, otherwise the bid list must be approved by the Socioeconomic Administrator. Before approval, the Administrator and the Buyer will review the procurement, and if need be, seek technical concurrence justifying the exclusion of small business/small disadvantaged business concerns from the Bid list.

6.4 Technical Assistance Program:

Special effort is made to assist small and small disadvantaged businesses to compete for requirements. The Administrator will direct this program. Assistance and support will be offered in the form of specification clarification, quality assurance certifications, facilities upgrading, management assistance, proposal preparation and consideration for additional time for responding to RFP's.

6.5 "Match Maker" Fairs and Conferences:

To involve small and small disadvantaged businesses in program acquisitions, Denver sponsored "match maker" fairs will be attended. The purpose of the fairs is to establish a small disadvantaged business "match" with program acquisitions. The activity consists of the following phases:

1) Development of a list of commodities of interest to small disadvantaged business.

2) Conduct fairs to create interest and participation by small disadvantaged business.

3) Preparation of specifications and conduct of bid conferences.

4) Assistance to small disadvantaged businesses, in bid decisions and proposal preparation.

6.6 Management Interest and Involvement:

The Denver Aerospace top management very actively supports the Small and Small Disadvantaged Business Subcontracting Program. In addition to setting annual Small Business and Small Disadvantaged Business subcontracting goals, which are closely monitored by management, we have also developed an Employee Performance Awards Program. Our performance against goals is reported to top management through the

Management Indicator Reporting System. In addition, each procurement function and each buyer is assigned a goal for small and small disadvantaged awards which is used in the Employee Performance Evaluation System. Salary increases and promotions are the direct result of this system.

7.0 SUBCONTRACTS GENERAL FLOW-DOWN PROVISIONS:

We use pre-printed contractual documents to flow-down general provisions for both cost reimbursement and fixed-price type subcontracts. The documents are kept current by revisions or addendums to incorporate changes in prime contracts or the appropriate procuring agency regulations.

For this program the small business/disadvantage small business clauses required by Public Law 95-507 will be incorporated by exhibit on all fixed price purchase agreements for tape recorder components. A copy of the Exhibit A "Small Business Clauses" is attached to this plan.

In the evaluation of Small Business/Small Disadvantaged Business proposals, it is not considered a handicap to request progress payments. It is our plan to accommodate each such request.

8.0 DATA GATHERING, REPORTING, AND SUPPORTING ACTIVITIES

8.1 Data Gathering:

Our Central Socio-Economic Activity uses a mechanized system to gather statistical data from coded purchase orders. This system provides a monthly report listing by customer, purchase order number, dollar value, business codes for large and small business, disadvantaged business, women-owned business, geographical location, and labor surplus area.

In addition, our computer system has been designed to provide statistical information to comply with the reporting requirements of SBA form 745 (8-79) and AFCMD Form 38a (July 1977). The DBND R03A and R06A Monthly Business Reports provide the data required by the above forms. Other forms used in the Small Business and Small Disadvantaged Business Subcontracting Program are Form DEN 343120 (2-80) Compilation/Bid List, DEN 900771 (1-80) Certification, DEN 411200 (9-74) Report of Small Business Subcontracting.

8.2 Reporting:

A system using the same features as described above will be implemented for procurements being administered on this program. All purchase orders and subcontracts originating and committed for the . Program will be coded and summarized to provide the following information:

1) Small Business - Contract Awards Report.

2) Small Disadvantaged Business - Contract Awards Report.

3) Small Disadvantaged Business - Opportunity to Bid Report.

4) Labor Surplus Area - Contract Awards.

5) Woman-Owned Business - Contract Awards.

The data gathering system, records, and reports generated will provide all information required for customer directed report forms.

To provide an update of subcontracting program accomplishments, Martin Marietta will provide semi-annually Subcontracting Report for Individual Contracts Form 294. In addition, we will cooperate in studies or surveys as may be required by the Contracting Agency or the Small Business Administration in order to determine the extent of compliance with the subcontracting plan.

8.3 Supporting Activities:

The program Socioeconomic Administrator will participate in "on-going" intra-company activities. These activities are summarized below:

8.3.1 Source List Development:

A comprehensive source list of Small Disadvantaged Business enterprises, consisting of 23 National and Regional Directories, is maintained in the Supplier Evaluation section for all Buying personnel to use. The list is continually being enlarged as more small socially and economically disadvantaged business directories become available. Each Buyer has been provided a National Small and Economically Disadvantaged Business Enterprises Directory developed by the company, listing in excess of 2,000 firms for use in the bidding and source selection process. New directories are carefully screened to identify potential small/small disadvantaged business subcontractors. Once identified, they are furnished complete information regarding our commodity list, names of Buyers for each item, procurement policies, visiting hours, etc. They are also requested to furnish more complete information on their capabilities, and we encourage them to become qualified sources. Our current active list of socially and economically disadvantaged business enterprise firms resulting from this screening and follow-up contact process totals 259 companies.

A Materiel "Source Manual" is published and provided to all program and Buying personnel. The manual endeavors to identify known Small Business and Small Disadvantaged Business sources for each item.

The National Minority Purchasing Council (NMPC) Vendor data base is screened to identify any additional minority capabilities and included in our source manual.

Also available to the Buyer are the following directories:

1) Minority Business Information System Directory.

2) TRY US 1982, published by National Minority Business Campaign.

3) REACH OUT, Minority Owned Business Directory, published by Martin Marietta.

4) Minority Business and Professional Directory (Colorado).

The above lists and manuals available to the program now, will be kept current and continually used to achieve the goals specified in this plan.

In addition, Martin Marietta will pursue the participation of Small Business and Small Disadvantged Business enterprises in Martin Marietta procurements by:

1) Participation in minority business opportunity conferences and trade fairs to actively solicit the interest of small socially and economically disadvantaged firms in our purchasing requirements.

2) Participation in federally sponsored procurement conferences.

3) Continued liaison with local Regional Minority Purchasing Councils and Small/Disadvantaged development and trade associations.

8.4 Records

To ensure our compliance with the reporting and record maintenance requirements, our system has been designed to provide the following:

1) Records on all contract solicitations over $100,000 are maintained indicating: a) whether small/disadvantaged business was solicited; and, if not, why; b) reason for the failure of solicited small/disadvantaged business to receive the subcontract award.

2) Records to support other outreach efforts, i.e., contacts with minority and small business trade associations, contacts with business development organizations, and procurement conferences and trade fair attendance.

3) Records to support internal activities to guide and encourage buyers, i.e., workshops, seminars, training programs and monitoring activity to evaluate compliance.

4) Records to support award data on a contract-by-contract basis to comply with contract reporting requirements.

NAS 3-23925 ⑤

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Refer to: 06-0257
10 March 1983

National Aeronautics & Space Admin.
Lewis Research Center
21000 Brookpard Road
Cleveland, OH 44135

Attention: Kurt Brocone
Contract Negotiator

Subject: RFP No. 3-505591
SwRI Proposal No. 06-0257

Gentlemen:

Pursuant to your request, enclosed is a revised Attachment A to our Small Business and Small Disadvantaged Business Concerns Subcontracting Plan. The Attachment A was revised to reflect the product mix planned to be subcontracted to large business concerns.

If you have any questions please contact Mr. R. E. Priegel at (512) 684-5111, ext. 3179.

Yours very truly,

S. H. Birgel
Director, Contracts

REP:ba
Enclosure
cc: U. S. Lindholm, SwRI
G. Lamm, SwRI
H. F. Garcia, SwRI

SAN ANTONIO, TEXAS
WITH OFFICES IN HOUSTON, TEXAS, AND WASHINGTON, D.C.

MAR 14 1983

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SwRI Proposal No. 06-0257

ATTACHMENT A (Revised 9 March 1983)

Products/Services Planned To Be Subcontracted To Small Business Concerns

1. Consulting Services		$ 83,372.00
2. Consulting Services		$ 45,000.00
3. Purchased Parts:		$ 1,800.00
Mat'ls For Test Fixturing	$800.00	
Electronic Components	$500.00	
Miscellaneous Supplies	$500.00	
TOTAL FOR SMALL BUSINESS CONCERNS		$130,172.00

Products/Services Planned To Be Subcontracted To Disadvantaged Business

1. Purchased Parts:		$ 200.00
Miscellaneous Supplies	$100.00	
Electronic Components	$100.00	
TOTAL FOR DISADVANTAGED CONCERNS		$ 200.00

Product/Services Planned To Be Subcontracted To Large Business Concerns

1. Consulting Services		$254,384.00
2. Purchased Parts:		$ 4,000.00
Quartz Extensometer Rods	$2,000.00	
Optical Parts for Stereo-Imaging	$1,800.00	
Miscellaneous Supplies	$ 200.00	
TOTAL FOR LARGE CONCERNS		$258,384.00

SAN ANTONIO, TEXAS
WITH OFFICES IN HOUSTON, TEXAS AND WASHINGTON, D.C.

ATTACHMENT I

SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING PLAN

DATE: December 29, 1982

NTRACTOR: NASA - Lewis Research Center

ADDRESS . : 21000 Brookpark Road

SOLICITATION OR CONTRACT NUMBER: RFP# 3-505591

EM/SERVICE: Constitutive Modeling For Isotropic Materials

The following, together with any attachments, is hereby submitted as a Subcontracting lan to satisfy the applicable requirements of Public Law 95-507 as implemented by FPP Policy Letter 80-2.

(a) The following percentage goals (expressed in terms of a percentage of total planned subcontracting dollars) are applicable to the contract cited above or to the contract awarded under the solicitation cited.

(i) Small Business Concerns: 35.9 % of total planned subcontracting dollars under this contract will go to subcontractors who are small business concerns.

(ii) Small Disadvantaged Business Concerns: .13 % of total planned subcontracting dollars under this contract will go to subcontractors who are small business concerns owned and controlled by socially and economically disadvantaged individuals. This percentage is included in the percentage shown under 1.(a)(i), above, as a subset.

(b) The following dollar values correspond to the percentage goals shown in (a) above.

(i) Total dollars planned to be subcontracted to small business concerns: $153,744.00.

(ii) Total dollars planned to be subcontracted to small disadvantaged business concerns: $ 593.00. This dollar amount is included in the amount shown under 1.(b)(i), above, as a subset.

(c) The total estimated dollar value of all planned subcontracting (to all types of business concerns) under this contract is $ 428,042.00.

(d) The following principal products and/or services will be subcontracted under this contract, and the distribution among small and small disadvantaged business concerns is as follows:

(Products/services planned to be subcontracted to small business concerns are identified by *-To small disadvantaged business concerns By**)

ATTACHMENT A

(ATTACHMENT MAY BE USED IF ADDITIONAL SPACE IS REQUIRED)

(e) The following method was used in developing subcontract goals (i.e., Statement explaining how the product and service areas to be subcontracted were established, how the areas to be subcontracted to small and small disadvantaged business concerns were determined, and, how small and small disadvantaged businesss concerns' capabilities were determined, to include identification of source lists utilized in making those determinations).

ATTACHMENT B

(f) Indirect and overhead costs (check one below):

X have been -have not been

included in the goals specified in 1(a) and 1(b).

(g) If "have been" is checked, explain the method used in determining the proportionate share of indirect and overhead cost to be allocated as subcontracts to small business concerns and small disadvantaged business concerns.

ATTACHMENT B

2. The following individual will administer the subcontracting program:

Name: Henry F. Garcia, CPM

Address & Telephone: 6220 Culebra Road
San Antonio, Texas 78284 512-684-5111 ext 2261

Title: Director of Materials Management

This individual's specific duties, as they relate to the firm's subcontracting program, are as follows:

General overall responsibility for this company's Small Business Program, the development, preparation and execution of individual subcontracting plans and for monitoring performance relative to contractual subcontracting requirements contained in this plan, including but not limited to:

(a) Developing and maintaining bidders lists of small and small disadvantaged business concerns from all possible sources.

(b) Ensuring that procurement packages are structured to permit small and small disadvantaged business concerns to participate to the maximum extent possible.

(c) Assuring inclusion of small and SDB concerns in all solicitations for products or services which they are capable of providing.

(d) Reviewing solicitations to remove statements, clauses, etc. which may tend to restrict or prohibit SB and SDB participation.

(e) Ensuring periodic rotation of potential subcontractors on bidders lists.

(f) Ensuring that the bid proposal review board documents its reasons for not selecting low bids submitted by small and small disadvantaged business concerns.

(g) Ensuring the establishment and maintenance of records of solicitations and subcontract award activity.

(h) Attending or arranging for attendance of company counsellors at Business Opportunity Workshops, Minority Business Enterprise Seminars, Trade Fairs, etc.

(i) Conducting or arranging for conduct of motivational training for purchasing personnel pursuant to the intent of P.L. 95-507.

(j) Monitoring attainment of proposed goals.

(k) Preparing and submitting periodic subcontracting reports required.

(l) Coordinating contractor's activities during the conduct of compliance reviews by Federal agencies.

(m) Coordinating the conduct of contractor's activities involving its small and small disadvantaged business subcontracting program.

(n) Additions to (or deletions from) the duties specified above are as follows:

____

____

____

____

3. The following efforts will be taken to assure that small and small disadvantaged business concerns will have an equitable opportunity to compete for subcontract:

(a) Outreach efforts will be made as follows:

(i) Contacts with minority and small business trade associations

(ii) Contacts with business development organizations

(iii) Attendance at small and minority business procurement conferences

(iv) Sources will be requested from SBA's PASS System.

(b) The following internal efforts will be made to guide and encourage buyers:

(i) Workshops, seminars and training programs will be conducted.

(ii) Activities will be monitored to evaluate compliance with this subcontracting plan.

(c) Small and small disadvantaged business concern source lists, guides and other data identifying small and small disadvantaged business concerns will be maintained and utilized by buyers in soliciting subcontracts.

(d) Additions to (or deletions from) the above listed efforts are as follows:

Any requisitions that applies to a contract with a subcontracting plan will be coded by a Purchasing Clerk with the "Small Business/Small Disadvantaged Business Concerns" Stamp, so that the buyers will recognize that this requisition will require special attention.

4. The bidder (contractor) agrees that the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals will be included in all subcontracts which offer further subcontracting opportunities, and all subcontractors except small business concerns who receive subcontracts in excess of $500,000 will be required to adopt and comply with a subcontracting plan similar to this one. Such plans will be reviewed by comparing them with the provisions of Public Law 95-507, and assuring that all minimum requirements of an acceptable subcontracting plan have been satisfied. The acceptability of percentage goals shall be determined on a case-by-case basis depending on the supplies/services involved, the availability of potential small and small disadvantaged subcontractors, and prior experience. Once approved and implemented, plans will be monitored through the submission of periodic reports, and/or, as time and availability of funds permit, periodic visits to subcontractors facilities to review applicable records and subcontracting program progress.

5. The bidder (contractor) agrees to submit such periodic reports and cooperate in any studies or surveys as may be required by the contracting agency or the Small Business Administration in order to determine the extent of compliance by the bidder with the subcontracting plan and with the clause entitled Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals, contained in the contract.

6. The bidder (contractor) agrees that he will maintain at least the following types of records to document compliance with this subcontracting plan:

(a) Small and Small Disadvantaged Business concern source lists, guides and other data identifying SB/SDBC vendors.

(b) Organizations contacted for small and disadvantaged business sources.

(c) On a contract-by-contract basis, records on all subcontract solicitations over $100,000, indicating on each solicitation (1) whether small business concerns were solicited, and if not, why not; (2) whether small disadvantaged business concerns were solicited, and if not, why not; and (3) reasons for the failure of solicited small or small disadvantaged business concerns to receive the subcontract award.

(d) Records to support other outreach efforts: Contacts with Minority and Small Business Trade Associations, etc. Attendance at small and minority business procurement conferences and trade affairs.

(e) Records to support internal activities to guide and encourage buyers: Workshops, Seminars, Training Programs, etc. Monitoring activities to evaluate compliance.

(f) On a contract-by-contract basis, records to support subcontract award data to include name and address of subcontractor.

(g) Records to be maintained in addition to the above are as follows:

7. The bidder (contractor) agrees to submit Standard Forms 294 (4-81), Subcontracting Report for Individual Contracts, and 295 (4-81), Summary Subcontract Report, in accordance with instructions provided on the back of forms, to provide data necessary to evaluate the effectiveness and extent of subcontracting programs which involve small and disadvantaged business concerns.

Signed: Frida J. Ellis

Typed Name: Henry F. Garcia

Title: Director of Materials Management

Date: December 29, 1982

PLAN APPROVED BY: ______________________
Small Business Officer

PLAN ACCEPTED BY: ______________________
Contracting Officer

Date: ______________

NOTE TO CONTRACTING OFFICER: Upon incorporation of a plan into the contract indicate herein the estimated dollar value of Contract $______________

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ATTACHMENT A

Products/Services Planned To Be Subcontracted To Small Business Concerns

1. Consulting Services		$ 83,372.00
2. Consulting Services		$ 45,000.00
3. Purchased Parts:		$ 1,800.00
Mat'ls For Test Fixturing	$ 800.00	
Electronic Components	$ 800.00	
Miscellaneous Supplies	$ 200.00	
TOTAL FOR SMALL BUSINESS CONCERNS		$ 130,172.00

Products/Services Planned To Be Subcontracted To Disadvantaged Business

1. Purchased Parts:		$ 200.00
Miscellaneous Supplies	$ 100.00	
Electronic Components	$ 100.00	
TOTAL FOR DISADVANTAGED CONCERNS		$ 200.00

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ATTACHMENT B (e)

The Institute has established that there are basically four areas to be subcontracted in most of our contracts. These are purchased parts, subcontracts, consulting services and overhead expenses.

The items are examined that are listed in the proposal then we determine which items are sole source requirements and which items are listed with certain firms because of techanical reasons.

A source list from current Institute vendor files, coupled with other SB/SDBC vendors' directories and/or lists, will be utilized to identify all suggested sources. These sources will be contacted through an Institute questionnaire to provide vendor identification and categorization information. A SB/SDBC catalogue has been developed to assist the buying staff in soliciting subcontracts to these vendors. So, each suggested vendor will be scrutinized to see if a SB/SDBC can be utilized.

ATTACHMENT B (g)

It has been noted from past experience that indirect purchases are approximately 21% ($ 428, 042) of the total overhead cost ($ 187, 076) of the contract.

The overhead allocated to the category of Small Business Concerns has averaged 60% of indirect purchases on an Institute wide basis. Based on this average, the Small Business indirect purchases will total $ 23, 572 for this contract

The overhead allocated to Small Disadvantaged Business Concerns has averaged 1% of indirect purchases on an Institute wide basis. Based on this average, the Small Disadvantaged Business indirect purchases will total $ 393 for this contract.

SAN ANTONIO, HOUSTON, CORPUS CHRISTI, TEXAS, AND WASHINGTON, D.C.

Mr. **Mitchell.** Let's assume, you don't have control over the procurement officers, do you have any knowledge as to whether or not those who do have control over the contracting officers, whether or not those persons in charge of them, if they discover violations or gross carelessness, whether any kind of remedial action is taken against them?

Mr. **Evans.** Against the contractor or the contracting officer?

Mr. **Mitchell.** The contracting officer.

Mr. **Evans.** I am not aware of a case that I would characterize as gross negligence. We had a case with General Dynamics under control with Lewis in Cleveland. It was the Expendable Launch Program. That was a case, I think, of misunderstanding. They should have understood, and I will agree, that standard forms 294's were not being submitted.

We were unaware of that at headquarters because they were submitting SF 295's to us. It involved a very small contract group at Cleveland, which has been corrected since then. I didn't consider that gross. I considered that they should have done it, but, they didn't. I didn't think it was gross, from the standpoint of gross negligence.

Mr. **Mitchell.** Did I use the word gross?

Mr. **Evans.** I thought I heard it before.

Mr. **Mitchell.** Not within the context that it was just put.

Mr. **Evans.** I have not encountered any instances in this area where I would characterize the performance of a contracting officer as really negligent. He should spend more time on it than he does, and I don't excuse him for not getting SF 294's in that particular case.

I think it was more inadvertent, just like the omission of those five plans out of how many contracts? It is almost 300 contracts.

Mr. **Mitchell.** I expect NASA to be perfect, despite what occurs.

Mr. **Evans.** That is why you were disappointed Monday and Tuesday on the shuttle launch delay.

Mr. **Mitchell.** If I find somebody in my office making little careless mistakes, I jack them up the first time. The second time, I terminate them.

One last question, do you believe that contracts subject to section 211 of Public Law 95-507 should contain a liquidated damage clause to be used in the event that the prime contractor fails to meet its subcontracting goals?

Mr. **Evans.** I don't like liquidated damages at all, Mr. Chairman.

Mr. **Mitchell.** I don't like them failing to meet their goals, either.

Mr. **Evans.** I think they are a crutch. They are generally used to assure delivery of materials, and used where it is difficult to assess a monetary value of the injury flowing from it.

As a matter of principle, I think you pay for them at the front end, and you may not need them. It is a goal, a good-faith best efforts goal. In some cases, we are learning how to negotiate, how to negotiate better.

In some cases, we are learning, perhaps, how better to use incentive fees, low balling, high balling, that type of thing. It is a measure of a learning process and a negotiating process.

In the area of support service contracts where the subcontracting goals are easier to follow in many cases, and I cite the cape as an example. They have not done badly. The cape hasn't. The cape went to the point on a major contract where they actually issued a show-cause letter to the contractor because of performance of his goals.

That precipitated immediate attention, and in my judgment, since I reviewed a great deal of it, it clarified the situation. The plan was reviewed by the regional administrator of the SBA, and it was accepted.

I point this out because subcontracting performance is being tracked, probably not as uniformly or thoroughly as it ought. There are a lot of things we don't do as thoroughly as we ought, but in that case at the cape, I thought that was pretty fast, pretty direct and pretty strong action, with pretty strong results.

Mr. MITCHELL. You certainly should be commended for that. Based on the hearings up to this point, there appears to be, on the part of Federal Government agencies and the private sector a kind of attitude of either contumacy, or disregard for something that I think is essential, and that is, giving small and small disadvantaged businesses the chance to do work, and that is one of the reasons why I probe very deeply into this.

There is a kind of shrugging off, oh, we made a mistake, that page fell out, or we really don't know, and it is that attitude that I assess based on the hearings up to this point.

The only way that we can get agencies to demonstrate a real commitment to it is to use the same kind of procedure that you did at the cape when you sent that contractor a letter.

Congressman Hayes, do you have some questions.

Mr. HAYES. Mr. Chairman, I think this is as good a time as any to take a couple of minutes to address this body. The extent of your knowledge and experience is evident as you interrogate the witnesses.

I must say that I want to enter this statement into the record. As many of you know, I am a freshman Congressman from Chicago, Illinois, and by my request, I was assigned to this Small Business Committee because of my concern and belief that small and minority businesses are being systematically deprived of opportunities to participate fully in this Nation's economic wealth.

Indeed, one need only to take a 1-day tour through my city to understand that my concern is real. I know that for the most part, it is uncommon for a freshman Congressman to actively participate in proceedings of this nature.

I assume that we are supposed to look, listen, and learn. Well, Mr. Chairman, I know your style of leadership, and it does not support that type of passive participation. For the last two hearings on this subject, I have observed and I have learned, and it is for this reason I am compelled by a sense of urgency to join you in voicing an outcry of the way the agencies of our Government and contracts in our Government's procurement system seem to disobey the law of this land. I find it difficult to accept or condone what appears to be abuses in the compliance with section 211 of Public Law 95-507.

These actions must be corrected. I wish to pledge my full support to the legislative initiatives or other action that you propose that would correct the noncompliance with Public Law 95-507.

I believe only through corrective measures will the small and minority business owners in my district be able to reap the full benefit of this most important small and minority business law. I just want to make my views clear for the record, but I think you are handling the situation quite well.

[Congressman Hayes' prepared statement follows:]

PREPARED STATEMENT OF HON. CHARLES A. HAYES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman, I appreciate this opportunity to provide an opening statement on the subject of today's hearing, and I would appreciate the inclusion of my entire statement into the record.

I am a freshman Congressman from Chicago, Illinois. I requested to be assigned to the Small Business Committee because of my concern and belief that small and minority businesses are being systematically deprived of opportunities to participate fully in this Nation's economic wealth. Indeed, one need only take a 1 day tour through my city to understand that my concern is real.

Mr. Chairman, I know that for the most part it is uncommon for a freshman Congressman to actively participate in proceedings of this nature. I assume we are suppose to look, listen and learn. Well, Mr. Chairman, I know that your style of leadership does not support this type of passive participation. For the last two hearings on this subject I have observed and I have learned. It is for this reason that I am compelled by a sense of urgency to join you in voicing an outcry as to the way the agencies of our Government and contractors in our Government's procurement system seem to disobey the law of this land. I find it difficult to accept or condone what appears to be abuses in the compliance with section 211 of Public Law 95-507. These actions must be corrected. I pledge my full support to legislative initiatives or other actions that you propose that will correct the noncompliance with Public Law 95-507. For I believe that only through corrective measures will the small and minority business owners in my district be able to reap the full benefit of this most important small and minority business law.

Mr. **MITCHELL.** Thank you very much.

You know, I try to run a committee so that everybody participates. I don't worry about seniority. I fought against it when I first came here.

Let me close it out by saying that just as we are required under the rules of the House and under the Federal Election Commission to submit reports with no mistakes, no tampering, no misleading, just as we are held by rigid standards in this Congress as evidenced recently by action taken against one of the Members for failing to report information, I think that same standard ought to be applied to every Government agency in terms of compliance with the law.

It is just that simple. Thank you very much for being here.

Our next panel consists of Mr. Colonel C. Armstrong, Chief of the Division of Acquisition and Grants of the Office of Acquisition and Property Management at the Department of Interior, and Henry G. Kirschenmann, Deputy Assistant Secretary of the Office of Procurement Assistance and Logistics at the Department of Health and Human Services.

If you will come forward. Thank you very much for taking your time from your busy schedules to be here.

TESTIMONY OF COLONEL C. ARMSTRONG, CHIEF, DIVISION OF ACQUISITION AND GRANTS,. OFFICE OF ACQUISITION AND PROPERTY MANAGEMENT, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY CHARLOTTE B. SPANN, DIRECTOR, OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION, DOI

Mr. ARMSTRONG. I was with the Department of Energy, who I understand will be on a subsequent panel.

Mr. MITCHELL. I didn't know you made that move. Let me know where you are, sir. We will hear from both of the witnesses and then raise questions.

Mr. ARMSTRONG. My last appearance before you was some 5 years ago when I was with another agency.

I am accompanied by Charlotte Spann, director of our Office of Small and Disadvantaged Business Utilization, who has a large responsibility over these programs within the Department of the Interior.

I will summarize my statement, if I may, Mr. Chairman, with the understanding it will be fully incorporated in the record.

I think I can say, and the statement pretty much depicts that while Interior's contractors have a reasonably good performance record, we have room for substantial improvement and we are trying to get there.

If I might highlight a few things, over the past 3 years of 1981 through 1983, we have really only three plans that were deficient in the sense that no plans were there. These three contracts totaled something less than $4 million.

Mr. MITCHELL. Are you saying three contracts were deficient?

Mr. ARMSTRONG. In the sense that they did not contain subcontracting plans. These three contracts total less than $4 million, and because of the delay in that fact coming to our attention and the degree of completion of those contracts, in fact, they were closed out, and final payment was made, prior to our discovery, we were unable to take corrective action at that time.

At the same time, some 79 plans over the same 3-year period were reviewed by SBA, and some eight of them totaling about $105 million were found to be deficient and this deficiency was in the area of not containing adequate subcontracting opportunities.

Four of those plans were from our Bureau of Reclamation, our construction program out in the West, and as you are probably aware, that is a construction program and it is a formally advertised program where there is a price competition set up.

Those four reclamation plans totaled about 101 million of the 105 million in contracts that were found deficient. In a formally advertised contract, the ability to negotiate goals and elements of goals within that contract is somewhat limited by the law. Also, during the 3 years in question here, our contractors awarded subcontracts valued at some $301 million. Our small business portion of that was about 41.8 percent. The small disadvantaged business proportion of that was 12.8 percent.

I understand the Government average is about 5.5 percent for disadvantaged business subcontracting.

In the area where we have a prime contract with a plan, where there was noncompliance, we found two totaling about $14 million where the prime contractor was found to be in noncompliance. Corrective action was taken, and both these prime contractors were brought into compliance.

Mr. **Mitchell.** Excuse me, I don't generally do this, but what was the corrective action? What did you do? You brought them in? "Shape up or lost the contract?"

Mr. **Armstrong.** The contracting officer was advised, and took the corrective action. As you maybe do not know, in the offices that do the substantial contracting within the Department of the Interior, we have an individual known as a BUDS [business utilization development specialist] who works very closely with the contracting people, and that is where the activity is.

The noncompliance activity is usually discovered by the BUDS who contacts the contracting officer. The point I am making here is that that system works, at least to the extent that we found two, and we corrected them.

In the area of how well we are doing in meeting our goals under the subcontracting plans, in those 3 fiscal years in question, there were some 23 contracts, totaling $167 million, where goals that were proposed and the plans were not met. Now, I am happy to say, and I am sure your primary interest is in the small disadvantaged——

Mr. **Mitchell.** It is really both.

Mr. **Armstrong.** We hit 61.3 percent achievement of that goal in the small business area, and 100 percent of small disadvantaged business goals. You have to go back to the nature or the character of the goal-setting process itself. When the goals are established, well, it is a sporty course, Mr. Chairman. You don't know what the procurement mix is going to be.

A substantial part of our contracting is advertised, at least for the size of contracts that would warrant goals, those that would meet the thresholds. Those are usually formally advertised contracts. It is essentially pure price competition.

You don't know who is going to win that competition, and you don't know what kind of in-house versus out-of-house capability they may have or what subcontracting opportunities there will be, so what I am saying is that in the area of small business, we missed our target.

We look at goal setting very closely. That consumes a good portion of the time of Charlotte's office, and when there is a need for our office to get involved with that, we do.

In the area of subcontracting goal accomplishments, again, for disadvantaged business, we have done pretty good, except for fiscal year 1983. We fell down there. We hit 2.5 percent, and we had a goal of 6 percent and our comments relative to small business generally would apply in the area of disadvantaged business, with perhaps one exception, and that is because of the nature of some of those larger contracts in the construction area, and in this case, I understand, there was a shortfall in terms of what we thought we were going to have in that program area versus what we actually had. That subcontracting we did have, the opportunities comprised the kinds of equipment and supplies that is not generally done by small disadvantaged businesses. I understand that you have some concern as to what the Department's position would be with respect to contractors who violated plans or did not comply with plans.

Well, we are happy to say that we have not found any cases where a contractor has violated a plan more than one time. So far, we have been able to find, and to bring noncomplying contractors into compliance when we discover them early enough, and where it made sense to do so.

We believe that the current regulations, including our own debarment and suspension regulations, affords us all the power we need to gain the attention of nonresponsive or willful contractors.

It is my experience that when you issue a 10-day show-cause notice to a contractor, or if you issue a notice to a contractor that you are about to suspend or debar him and give him 30 days to come in and tell you why he shouldn't be, that you find the senior officials of that office beating down your door to come in and talk to you. Usually, the threat is enough. I would like you to note that our regulations which recently supplemented the implementation of the Federal acquisition regulations, did include a departmental subcontracting plan format. It makes it easy for a contracting officer out there to know what needs to go in a plan, and gives a check sheet for completeness.

I also would like to tell you that within the Department of the Interior, we do have senior management concern and oversight of these programs. Charlotte's office is a separate entity reporting directly to the Under Secretary, and because of that, she has access to the Under Secretary on a regular basis to discuss problems, and to come up with resolutions to those problems.

That office also conducts a program management review program. It is fairly new, and again, resources do not permit it to do the widespread reviews that would seem indicated.

However, we have done some reviews, and we are proud to say that those reviews have shown general compliance. That is pretty much the essence of my statement.

We will be happy to field any questions you might have.

[Colonel Armstrong's prepared statement with attachments follows:]

PREPARED STATEMENT OF COLONEL C. ARMSTRONG, CHIEF, DIVISION OF ACQUISITION AND GRANTS, OFFICE OF ACQUISITION AND PROPERTY MANAGEMENT, DEPARTMENT OF THE INTERIOR

I am Colonel C. Armstrong, Chief, Division of Acquisition and Grants, Office of Acquisition and Property Management, Department of the Interior. I welcome this opportunity to appear before you today, in response to your invitation to Secretary William Clark to discuss how the Department of the Interior is implementing the subcontracting program established under section 211 of Public Law 95-507 and, in particular to respond to the specific inquiries raised in your letter of May 4, 1984. I am accompanied by Charlotte Brooks Spann, Director, Office of Small and Disadvantaged Business Utilization, Department of the Interior.

Although Interior's large prime contractors have been reasonably good performers in the area of small and disadvantaged business subcontracting, there remains room for substantial improvements. We shall continue to increase our efforts to ensure that the provisions of section 211 of Public Law 95-507 are fully implemented so as to maximize the opportunities for small and disadvantaged businesses.

Mr. Chairman, for the record, I shall respond to questions (1) through (8) in the same sequential order in which they were presented in your letter of May 4, 1984. Should you or the committee desire additional information or further assistance, I shall be happy to respond to any of your concerns or questions.

Question 1.—The number and dollar value of contracts awarded during the last three years which contained subcontracting plans?

In response to question 1: Interior's experience was:

	Number of contracts	Dollars
Fiscal year:		
1981	56	339,810,813
1982	97	413,113,131
1983	102	273,643,641

Question 2.—What was the number and dollar value of contracts awarded during the last 3 years which did not contain subcontracting plans, but which were required by law to contain such plans? What corrective action was taken regarding these awards? How many contracts have not been modified to include plans?

In response to question 2: The deficient contracts were:

	Number of contracts	Dollars
Fiscal year:		
1981	0	0
1982	2	2,044,323
1983	1	1,877,680

No corrective action was taken regarding these awards and none of the contracts were modified to include plans because all three contracts were closed and final payments made prior to our discovery that they did not contain the required subcontracting plans.

Question 3.—How many plans did SBA review during the last 3 years? What was the number found deficient and dollar value of such contracts?

In response to question 3: The Small Business Administration [SBA] reviewed 79 plans during the last 3 years. Eight subcontracting plans totaling $105,049,799 were found to be deficient. Prior to contract execution proposed subcontracting plans are made available to the Small Business Administration's Procurement Center representatives [PCR's] for review in those activities that are serviced by PCR's. The SBA PCR comments are given full consideration before the final plan is negotiated.

Question 4.—What was the total dollar value of all subcontracts awarded during the last 3 years under prime contracts containing plans and the dollar value and percentage of subcontracts awarded to small and small disadvantaged businesses?

In response to question 4: During the last 3 years, under prime contracts containing plans, the Department awarded subcontracts valued at $301.6 million. The dollar value and percentage of those subcontracts awarded to small and disadvantaged businesses were:

For Small Business $126.2 million—41.8 percent.

For Disadvantaged Business $38.5 million—12.8 percent.

Question 5.—What was the total number and dollar value of all prime contracts awarded where the prime was found to be in noncompliance and any remedial actions taken including debarment proceedings?

In response to question 5: Two prime contracts totaling $14,277,434 were awarded where the prime contractors were found to be in noncompliance with subcontracting plans. Both contractors were notified of the deficiencies. With the assistance of the business utilization and development specialist, corrective action was taken, and the contractor was brought into compliance.

Question 6.—Describe any Outreach Program that Department of the Interior may have to assist small and small disadvantaged businesses interested in subcontracting with Department of the Interior's large prime contractors.

In response to question 6: In June 1982, the Department published a Subcontracting Directory. The primary purpose of this 13-page directory is to provide information and guidance to those business concerns seeking subcontracting opportunities with interior prime contractors. The directory contains a description of the Small and Small Disadvantaged Business Subcontracting Program, the Labor Surplus Area Subcontracting Program, and, a listing of names and address of large business firms with potentially repetitive subcontracting opportunities. The Department has distributed more than 5,000 copies of the subcontracting directory while participating in congressional procurement conferences and trade fairs, responding to written requests, and of course during vendor visits to the Office of Small and Disadvantaged Business Utilization, and to the business utilization specialists of our component bureaus and offices. We enourage use of the Commerce Business Daily for publication of subcontracting opportunities. The Bureau of Reclamation routinely sends advance procurement bulletins to vendors on their mailing list. The staff of the Office of Small and Disadvantaged Business Utilization represent the Department at major conferences, seminars, workshops, symposiums, etc., given annually by small, small disadvantaged, and women-owned business and trade associations. We are not just spectators at such events, but we regularly purchase booth space and provide one-on-one counseling, using a variety of useful contracting information and handouts (including the Subcontracting Directory) detailing small business acquisition opportunities within the Department. We have found the Interior Subcontracting Directory to be helpful and are now considering annual or biannual updates. In either case it is currently scheduled for updating in fiscal year 1985.

Mr. Chairman, for your information, a copy of Interior's Subcontracting Directory is being provided with this prepared testimony.

Question 7.—Give the number and dollar value of prime contracts awarded where the goals recited in plans were not met. What is the average goal attainment for both small and small disadvantaged business?

In response to question 7: During the past 3 fiscal years, a total of 23 contracts valued at $167,486,818 were awarded where goals proposed in the plans were not met. Interior prime contractors have averaged 61.3 percent achievement of small business goals and 100.8 percent of small disadvantaged business goals.

Question 8.—What were your subcontracting goals for the last 3 fiscal years? Were goals met? If not, explain.

In response to question 8: The subcontracting goals and accomplishments for the Department for the last 3 years are as follows:

TOTAL SUBCONTRACTS UNDER PUBLIC LAW 95-507

	Goal	Actual
Fiscal year:		
1981	$283.8	$106.3
1982	178.7	49.8
1983	140.3	145.5

TOTAL SMALL DISADVANTAGED SUBCONTRACTS

	Goal (percent)	Actual (percent)
Fiscal year:		
1981	5.8	25.0
1982	7.1	16.9
1983	6.1	2.5

TOTAL SMALL BUSINESS SUBCONTRACTING

	Goal (percent)	Actual (percent)
Fiscal year:		
1981	25.0	32.2
1982	35.5	57.8
1983	46.3	43.4

The Department substantially exceeded its subcontracting goals in fiscal year 1981 and fiscal year 1982 with some slippage occurring in fiscal year 1983. The Bureau of Reclamation develops multi-purpose water projects, and is responsible for regulation, conservation and development of new water supplies. The Bureau of Reclamation Water Resource Management Programs include the construction of facilities which provide sources for water and power (dams, reservoirs, canals, and power plants). During fiscal year 1983, a majority of the subcontracting opportunities on the Bureau of Reclamation projects involved the acquisition of large amounts of heavy equipment, such as pumps, steel pipe, generators, turbines, etc. Thus, opportunities for small disadvantaged businesses were extremely limited.

In your letter of invitation, you asked that we address all actions taken by the Department of the Interior in response to recommendations addressed to agencies in House Report 97-956. Subsequent to receiving the report, the Office of Small and Disadvantaged Business Utilization began collecting data quarterly to determine the number and dollar value of contracts awarded which contain subcontracting plans; the number and dollar value of contracts awarded which do not contain plans, but which, by law, should have plans; and the dollar value and percent of subcontracts awarded to small businesses and to small disadvantaged businesses. Beginning in fiscal year 1985, we will be prepared to closely monitor, review and effect improvements in all aspects of the subcontracting program implementation.

As previously mentioned, recent data collected from Interior's Bureaus and Offices indicate that SBA has conducted post award reviews of 79 plans during the last 3 years. We strive to always provide SBA with adequate and timely information with respect to the award of all contracts covered by section 211. We have not encountered any violations by a contractor of more than one plan and, so far, we have been able to bring noncomplying contractors into compliance. Since the Federal acquisition regulation defines failure to comply with such plans as a material breach of the contract, we believe that Interior's current regulations, including debarment and suspension regulations, provide the Department with the necessary authority to take effective action against any contractor who exhibits a pattern of failure to comply with subcontracting plans.

I would like to note that our departmental regulations include a subcontracting plan outline for the use of contractors in formulating their plans. This outline allows us to more effectively evaluate the plans submitted. We understand that few agency regulations provide such an outline for the required plans. We are submitting a copy of our regulations, including the required plan outline for the record.

With regard to the performance standard recommendation in the House report, we would agree that there are advantages to making support of Small and Disadvantaged Business Programs, including subcontracting, an integral part of annual performance standards. However, Secretary Clark in an effort to highlight management support for these programs has included in the secretarial management by objective [MBO] system an objective which specifically addresses the subject of minority business development. This MBO has been assigned to each Bureau head, who must be accountable to the Secretary each month on Bureau progress. The progress of each Bureau is also tracked during each monthly MBO meeting between Under Secretary Ann McLaughlin and the Director, Office of Small and Disadvantaged Business Utilization. By reporting directly to the Under Secretary, the Director, Office of Small and Disadvantaged Business Utilization is provided an additional opportunity to discuss problems and resolutions affecting progress by those bureaus and offices whose performance is considered to be less than satisfactory.

Finally, since 1982 our Office of Small and Disadvantaged Business Utilization has conducted four program management reviews at the offices of large prime contractors with Public Law 95-507 subcontracting programs: Two in fiscal year 1982 and two in fiscal year 1983. There are two additional reviews scheduled during fiscal year 1984. Copies of the review results and recommendations for those conducted in fiscal year 1982 and fiscal year 1983 have been provided to the SBA for their information.

Mr. Chairman, I want to take this opportunity to assure you and the committee that you have the Department's continued support and commitment, particularly that of Secretary Clark and Under Secretary McLaughlin, to the business and economic development procurement objectives of Public Law 95-507. Mr. Chairman, this concludes my prepared statement. We will be happy to answer any questions you may have.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 13 1984

Honorable Parren J. Mitchell
Chairman, Committee on Small Business
House of Representatives
Washington, DC 20513

Dear Mr. Chairman:

Thank you for your letter of July 19, 1984, to Colonel C. Armstrong, and for the opportunity to respond to the questions you raised following the Department of the Interior's testimony before the Subcommittee on June 28, 1984.

The primary responsibility for implementing the Department's subcontracting program, mandated by Public Law 95-507, rests with the Office of Small and Disadvantaged Business Utilization. Consequently, we are providing the answers to the questions you have raised. For purpose of clarity and simplicity, we are submitting the enclosed response in the same sequential order in which the questions are presented in your letter.

Please be assured that the Department of the Interior remains totally committed to the effective implementation of Public Law 95-507 including all of its subcontracting provisions. If I can be of further assistance, please do not hesitate to let me know.

Sincerely yours,

Charlotte Brooks Spann, Director
Office of Small and Disadvantaged
Business Utilization

Enclosures

cc: Legislative Counsel
Colonel C. Armstrong, DAG

Questions on Newbery Constructors, Inc.

Question: How is the inconsistency explained between item 14 of the SF-295 which shows estimated total subcontracts at $1.7 million, whereas item 16 shows actual total subcontracts at $5.2 million?

Response: When questioned about the inconsistency, Newbery Constructors, Inc., stated that actual total subcontracting was substantially increased by the award of an electrical subcontract to a subsidiary of Newbery for approximately $3 million. The remaining dollars awarded in excess of the $170,000 originally planned for subcontracting, resulted from Newbery management decisions to subcontract more work then had been originally planned.

Question: Was there an incentive clause on this contract for subcontract awards to small and small disadvantaged business?

Response: No, the contract contained no incentive clause.

Department of the Interior Responses to Questions on the Implementation of the Subcontracting Provisions of Public Law 95-507

Response to Question No. 1:

The Department of the Interior stated on page three of its testimony that eight of the 79 subcontracting plans reviewed by SBA over a three year period were found to be deficient. The Bureau of Reclamation has since corrected its total number of contracts found deficient from four to three. Consequently, the deficiency data is corrected as follows:

(a) SBA reviewed 78 subcontracting plans during FY 1981, FY 1982, and FY 1983.

(b) The number of subcontracting plans found deficient were seven.

(c) The dollar value of the seven deficient contracts was $91,431,949.

(d) The average dollar value of these deficient contracts equals $13,061,707.

In response to the specific questions asked, we are providing the following information regarding deficiencies found; SBA recommendations; and, compliance therewith.

Bureau of Reclamation

(a) Contract Number 2-07-1D-7508 (FY 1982)

- Subcontracting Plan Deficiencies:

  (1) Source lists identifying suppliers and subcontracts as small and/or small disadvantaged businesses were incomplete.

  (2) Prime contractor failed to require one of its subcontractors to comply with flow-down subcontracting plan procedures.

- SBA Recommendation(s):

  SBA advised the contracting officer and the contractor that deficiencies noted must be corrected prior to the final subcontracting plan review in order for the contractor to be found in compliance.

- Bureau Action:

  (1) At the request of the contracting officer, the contractor submitted additional small and disadvantaged business sources which corrected the deficiency.

  (2) The subcontractor who had failed to provide a subcontracting plan to the prime contractor did so.

(b) Contract Number 2-07-4D-C7513 (FY 1982)

- Subcontracting Plan Deficiency:

  (1) The seven percent goal for small business, and the one percent goal for small and disadvantaged business, was considered low and not reflective of the maximum potential for subcontracting opportunities.

- SBA Recommendation: None

- Bureau Action:

  (1) The contracting officer conducted an intensive review of the proposed goals with the contractor and determined that the project location and type of construction (construction of a dam using very large expensive and highly technical equipment) would significantly influence subcontracting goal accomplishments. Consequently the contracting officer accepted the proposed goals.

(C) Contract Number 2-07-40-C2035 (FY 1982)

- Subcontracting Plan Deficiencies:

  (1) The one percent goal for small business was considered too low for a construction project.

  (2) No specific small and disadvantaged business goal was contained in the plan.

  (3) The method used to develop the goal was not specific, nor was the method used to include indirect and overhead costs explained.

- SBA Recommendations: None

- Bureau Action:

  The contracting officer provided the contractor additional small and disadvantaged business sources. However, the contractor proposed, and accomplished, practically the entire contract with his own work force. This decision by the contractor virtually nullified subcontracting opportunities for small and small disadvantaged businesses. The contracting officer's decision to accept the proposed goals was therefore justified.

  With respect to the methodology used to develop goals and the inclusion of indirect and overhead costs in the goals proposed in the subcontracting plan, the contractor provided the required information, and was therefore found to be in compliance.

Bureau of Mines

Contract Number S0221039 (FY 1982)

- Subcontracting Plan Deficiency:

  (1) SBA stated that the proposed small business subcontract dollar goal in the plan did not equate to five percent of total subcontracting, as proposed.

- SBA Recommendation: Correct the dollar total.

- Bureau Action:

  (1) At the request of the contracting officer, the contractor revised the subcontracting plan to reflect the correct dollar total subsequently approved by SBA.

Bureau of Indian Affairs

Three Contracts

The Bureau of Indian Affairs (BIA) was unable to provide the information requested in your letter in sufficient time for inclusion in this response. The requested information will be provided to the committee upon receipt from BIA, by no later than August 24, 1984.

Response to Question No. 2:

During the last three years, the Department of the Interior awarded a total of three contracts totalling approximately $4 million, without subcontracting plans.

In response to specific questions regarding these contracts, the following information is provided:

Bureau of Land Management

(a) Contract Number (Mod. 5) YA-553-CTO-1051 (FY 1982)

- Reason for non-incorporation prior to contract execution: contract was awarded (negotiated) on June 3, 1980 for $69,420; no subcontracting plan was required. The contract had two pre-priced options for the following two years. Option one was exercised and awarded on October 8, 1980 for $374,980; no subcontracting plan required. Option two was exercised and awarded on October 7, 1981 for $577,312; a subcontracting plan was required. The requirement for the subcontracting plan was inadvertently overlooked by the contracting officer.

- Remedial action taken against contracting officer: The contracting offficer was admonished for his oversight and reminded of his responsibilities.

- Additional Information:

  The contractor provided the bureau award information on an SF-294 for the period 10/1/81 thru 9/30/83 indicating that:

Total Subcontracting awards were	$40,892
Total Small Business awards were	25,834 - 63%
Total Large Business awards were	15,058 - 37%

  The contract was labor intensive and provided very little opportunity for subcontracting.

Bureau of Indian Affairs

Two Contracts

The Bureau of Indian Affairs (BIA) was unable to provide the information requested in your letter in sufficient time for inclusion in this response. The requested information will be provided to the committee upon receipt from BIA, but no later than August 24, 1984.

Response to Question No. 3

Goals are based on a percentage of the estimated subcontracts which may be awarded by Interior prime contractors. It is nearly impossible to predict either the geographic location of the prime contract, the percentage of the contracts that will be subcontracted, or whether the awardee will be a large business, since most of the susceptible contracts are formally advertised construction contracts. Consequently, goals based on empirical data are tentative, at best. Since goals are based on an imprecise technique, it is not unusual for fluctuations to occur from year to year.

We would also note that while Interior has experienced an overall increase in the number of large business contractors receiving contracts subject to the provisions of Public Law 95-507; (e.g., from 57 contractors in FY 1980 to 72 contractors in FY 1983) the total dollar value of contracts awarded to those contractors has decreased from $559 million in FY 1980 to $314 million in FY 1983. The increase in the number of large business contractors, and the corresponding decrease in award dollars, further minimizes subcontracting opportunities for small and small disadvantaged businesses.

Response to Question No. 4

The Department of the Interior Acquisition Regulation (DIAR 1409.406-3) which supplements the Federal Acquisition Regulation (FAR), provides the Department with more than sufficient authority to take effective action, including debarment and suspensions against any contractor who exhibits a pattern of failure to comply with subcontracting plans. We are not prepared to say that the FAR alone provides sufficient authority for all agencies to take similar action.

Response to Question No. 5

Secretary Clark has determined that for the present, the MBO system referred to on page 10 of our testimony provides an effective and efficient vehicle for him to monitor internal performance in Interior's Business and Economic Development Program. Should the lack of continued program accomplishments prove otherwise, Interior will at that time give maximum consideration to your recommendation that this objective be made an integral part of the annual performance standards of the appropriate bureau and office management and acquisition personnel.

Response to Question No. 6

The Department of the Interior experienced the following with respect to the number of large prime contractors which are awarded one or more contracts subject to the provisions of Public Law 95-507 (i.e., repetitive award):

Response to Question No. 6 (continued)

Total Number of Large Firms Receiving Contract Subject to P.L. 95-507:

Our statistics indicate that only eight contractors have received repetitive awards during the four year period.

Response to Question No. 7

An austere budget coupled with a limited staff and reduced resources, are the principle reasons why Interior has heretofore conducted only two subcontracting program management reviews annually.

As staff and budget constraints become less pronounced, a concerted effort will be made to conduct additional program management reviews. However, as we noted earlier while the number of annual contract awards to prime contractors subject to the provisions of P.L. 95-507 shows a modest increase, the actual dollars awarded shows a significant decrease thus minimizing subcontracting opportunities for small and small disadvantaged business.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEB

AUG 22 1984

Honorable Parren J. Mitchell
Chairman, Committee on Small Business
House of Representatives
Washington, DC 20513

Dear Mr. Chairman:

On July 19, 1984, you sent a letter to Colonel C. Armstrong, requesting a written response to a series of questions you raised following the Department of the Interior's Testimony before the subcommittee on June 28, 1984.

In our August 13, 1984, response to your questions, we indicated that we could not readily respond to your questions number one and two relative to the Bureau of Indian Affairs, but that the requested information would be provided by August 24, 1984.

I am enclosing the requested information and hope you find it useful. If I can be of further assistance, please do not hesitate to let me know.

Sincerely yours,

Charlotte Brooks Spann, Director
Office of Small and Disadvantaged
Business Utilization

Enclosure

cc: Legislative Counsel
Colonel C. Armstrong, DAG

Department of the Interior Responses to Questions on the Implementation of the Subcontracting Provisions of Public Law 95-507

Response to Question No. 1:

In our response of August 13, 1984, we indicated that Interior's Testimony on page three, regarding deficiency data, should be revised. We provided the necessary data to accomplish those revisions. The response provided by the Bureau of Indian Affairs (BIA) indicates that all three contracts previously reported by BIA as having been reviewed and found deficient by the Small Business Administration (SBA) was in error, as the contracts in question were actually awarded to small businesses. Since this negated the SBA requirement for review, no subcontract plan was requested and no review was made.

The deficiency data should be further corrected as follows:

(a) SBA reviewed 75 subcontracting plans during FY 1981, FY 1982, and FY 1983;

(b) The number of subcontracting plans found deficient were four;

(c) The dollar value of the four deficient contracts was $89,594,046; and

(d) The average dollar value of each deficient contract is $22,387,262.

Response to Question No. 2:

In our response of August 13, 1984, we indicated that during the last three years, Interior awarded a total of three contracts totalling approximately $4 million, without subcontracting plans. The response provided by BIA indicates that one of the contracts previously reported as having no subcontracting plan did not require a plan. Consequently, Interior's data should be revised as follows:

- During the last three years, a total of two contracts for an aggregate value of nearly $2.5 million was awarded without subcontracting plans.

The following information was provided by BIA concerning the contracts in question:

(a) Contract number A00C14201124 $1,467,011 (FY 1982)

- Reason for non-incorporation prior to contract execution:

  Contractor stated that there would be no subcontracting opportunities as he planned to accomplish all of the work with his own forces. This was done by letter to the contracting officer prior to award. Obviously this contract should not have been reported by BIA as having been awarded without a subcontracting plan.

° Remedial action taken against contracting officer:

None required.

° Additional information:

Contractor subsequently informed the contracting officer that he would subcontract with two firms, and did so as follows:

Total subcontract awards	$136,672
Subcontract award to Large Business	$14,040 - 10 percent
Subcontract award to Small Business	$122,632 - 90 percent

(b) Contract number #50C14203573 - $1,877,680 (FY 1983)

° Reason for non-incorporation prior to contract execution:

The contract was awarded in January 1983 and completed in April 1984. During this period, the responsible contracting officer resigned three months after contract award. Shortly thereafter, the contract specialist subsequently assigned to the contract also resigned. The contract specialist who was then assigned to the contract was totally unfamiliar with the contract. This course of events was largely responsible for the omission.

° Remedial action taken against contracting officer:

None. Contract specialist was admonished for the oversight and reminded of his responsibilities.

Mr. MITCHELL. Mr. Kirschenmann? As I indicated to Colonel Armstrong, we have your entire statement that will be submitted for the record. If you want to highlight it, that is fine.

TESTIMONY OF HENRY G. KIRSCHENMANN, DEPUTY ASSISTANT SECRETARY, OFFICE OF PROCUREMENT ASSISTANCE AND LOGISTICS, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY RICHARD CLINKSCALES, DIRECTOR, OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION, HHS

Mr. KIRSCHENMANN. Much of what I have to say is relatively short.

Mr. Richard Clinkscales, to my right, is the Director of our Office of Small and Disadvantaged Business Utilization.

Mr. Chairman, and Mr. Hayes, we in HHS take our responsibility to implement the requirements of Public Law 95-507 seriously and have worked diligently to implement in our acquisition programs.

Our acquisition staff has been provided with detailed guidance and procedures for applying and administering the provisions of section 211 of this law.

During the past 3 fiscal years, we awarded 1,308 contracts, valued at approximately $3.8 billion, which were subject to the requirements of section 211. We are pleased to report that all of these contracts have included subcontracting plans acceptable to our contracting officers and the Small Business Administration.

However, we have two concerns about the implementation of these plans. The first involves the fluctuation in the percentages of subcontract awards to small business and small disadvantaged business from year to year as reported to us by our contractors.

For example, although the amount of subcontracts awarded to small businesses has increased from $54.7 million in fiscal year 1981 to $89.2 million in fiscal year 1983, the percentage of award has decreased from 69.9 percent to 39.3 percent.

The phenomenon is comparable for subcontract awards to small disadvantaged businesses; the dollar value of the subcontracts was $7.6 million in fiscal year 1981, $15.9 million in fiscal year 1982, and $10 million in fiscal year 1983. Yet the respective percentages were 8.9 percent, 13.7 percent, and 4.4 percent.

Our second concern involves the extent of the reported disparity between the amount of subcontracts awarded to small businesses and the amount awarded to small disadvantaged businesses. For the 3-year period, small businesses averaged about 49.1 percent of total subcontract dollars. Small disadvantaged businesses averaged about 7.8 percent.

We are convinced that two unrelated sets of circumstances account for these disparities and fluctuations from year to year.

One is the limited number of competitive small disadvantaged businesses within the fields and disciplines offering a significant portion of our subcontracting opportunities, and the other is incorrect reporting by many of our prime contractors. Let me discuss each of these issues separately.

The two principal sources for subcontracting opportunities within our Department are generated by contracts awarded by the

Public Health Service and the Health Care Financing Administration.

These two organizations collectively accounted for approximately 88 percent of the contract dollars for all contracts containing subcontracting plans. HCFA's contractors have experienced some success in locating small disadvantaged businesses capable of providing the supplies and services required for their subcontracting programs.

Small disadvantaged businesses have averaged about 10 percent in subcontract awards while small businesses received 51 percent in fiscal year 1981 and 1982 and 30.2 percent in fiscal year 1983.

Within the Public Health Service, whose contracts are predominantly for research, contracting opportunities with small and disadvantaged firms are even more limited. There appears to be a scarcity of competitive small disadvantaged business vendors for the medical and laboratory supplies and equipment needed in that research.

We have met with selected prime contractors in an effort to determine ways in which we can be of assistance in increasing the amount of subcontracting with small disadvantaged businesses. These contractors cited a lack of price competitiveness as the major problem with small disadvantaged businesses interested in participating as subcontractors.

Recognizing this problem, we are constantly reviewing, and requiring our prime contractors to review source lists of small disadvantaged businesses in an attempt to locate firms capable of participating as subcontractors in the biomedical research industry.

We are also engaging in extensive outreach activities. Our Office of Small and Disadvantaged Business Utilization, in concert with our five operating divisions conducts an aggressive outreach program on a continual basis searching for new small and small disadvantaged business firms interested and capable of participating in our acquisition programs at the prime and subcontractor levels.

We cooperate with the Department of Commerce by participating in Federal procurement conferences sponsored by Members of the Congress for their constituents. We also participate in conferences, seminars, workshops, and marketing seminars sponsored by small and small disadvantaged business organizations.

Our five operating divisions conduct seminars, training programs and workshops for small and small disadvantaged businesses. These programs are tailored to the specific requirements and contractual opportunities of the sponsoring activity.

Our Office of Small and Disadvantaged Business Utilization publishes an annual HHS subcontracting directory which identifies all of our prime contractors who are subject to the provisions of section 211 of Public Law 95-507.

This directory has been designed as a marketing guide for small businesses desirous of pursuing subcontracting opportunities with our prime contractors. The directory identifies the contract number, the awarding HHS component, the contractor's name and address, the contract completion date, the project title, and the subcontracting liaison person.

We feel incorrect reporting by our prime contractors is the second reason which accounts for the disparity between subcontract awards to small businesses and small disadvantaged business.

Standard Forms 294 and 295 are the principal sources of the data we use to monitor and evaluate our prime contractor's subcontracting performance. The standard form 294 is used by our acquisition staff to monitor our contractors' compliance on a contract by contract basis. The standard form 295 is used by our Office of Small and Disadvantaged Business Utilization to monitor our contractors' subcontracting achievements on a companywide basis.

We have experienced problems in obtaining accurate summary subcontracting reports since the inception of the program. Despite our efforts of providing our contractors detailed written and oral instruction for the completion of the standard form 295, we must return approximately one-third of these reports each quarter for corrections. As an example, for the fourth quarter of fiscal year 1983, many prime contractors erroneously reported companywide subcontracting data rather than subcontracting data generated by HHS contracts. Some of these errors were noted during visual reviews of these reports.

However, we suspect many were not detected. These errors inflated the base of total subcontracts awarded by prime contractors and consequently distorted the percentages awarded to small and small disadvantaged businesses.

The standard form 295 is extremely difficult for many of our prime contractors to use. The form requires prime contractors to summarize all subcontracting data on a companywide basis. Many of our prime contractors are not physically organized to do this and attempts to comply with this requirements have resulted in the types of errors I have just described.

However, we are continuing to spend a significant amount of time assisting prime contractors to improve the reporting of their subcontracting achievements for small and small disadvantaged businesses.

In response to your questions, HHS exceeded its subcontracting goals for small and small disadvantaged business in fiscal year 1981 and fiscal year 1982. We appear not to have met our goal in fiscal year 1983, but as I have noted, we believe the reports upon which our numbers are based may not be reliable. Also, our fiscal year 1983 goal may have been overly ambitious.

In reference to the recommendations pertaining to HHS in House Report 97-956, the statistical data recommended for submittal to the committee is routinely developed and can be made available to the committee or the Small Business Administration upon request. We have taken no action on the third recommendation because none of our prime contractors have been determined to be in violation of the subcontracting provisions of their contracts.

Finally, we have incorporated into our acquisition regulations language which makes the contracting officer responsible and accountable for carrying out the subcontracting program required by section 211 of Public Law 95-507.

Mr. Chairman, in summary, I would like to say that HHS remains committed to implementing a strong small and small disadvantaged business program. I think that we have come a long way, although we can and will continue to improve our performance.

This concludes my prepared statement. I submit with my statement HHS responses to the questions contained in your letter of May 4, 1984. I will be pleased to answer any questions you might have.

[The information referred to above follows:]

Response to Questions Posed by Committee on Small Business
Subcommittee on Small Business Administration and Small Business Investment Corporation Authority, Minority Enterprise and General Small Business Problems

(1) Number and dollar value of contracts awarded during the last three years which contained subcontracting plans.

FY 81	FY 82	FY 83
455	430	424
$1.2 - Billion	$1.3 - Billion	$1.3 - Billion

(2) Number and dollar value of contracts awarded during the last three years which did not contain subcontracting plans, but which were required by law to contain such plans. What corrective action was taken regarding these awards? How many contracts have not been modified to include plans?

FY 81	FY 82	FY 83
-0-	-0-	-0-

(3) How many plans did SBA review during the last three years? What was the number found deficient and dollar value of such contracts?

FY 81	FY 82	FY 83
All	All	All
None	None	None

(4) Total dollar value of all subcontracts awarded during the last three years under prime contracts containing plans and the dollar value and percentage of subcontracts awarded to small and small disadvantaged businesses.

	FY 81	FY 82	FY 83
o Total Dollar Value	$85,809 mil.	$115,556 mil.	$227,038 mil.
o Dollar value and percentage to small business	59,723 mil. 69.6%	61,640 mil. 53.3%	89,192 mil. 39.3%
o Dollar value and percentage to small disadvantaged businesses	$ 7,639 mil. 8.9%	$ 15,870 mil. 13.7%	$ 9,958 mil. 4.4%

NOTE: These numbers are reported by HHS prime contractors on Standard Form 295.

(5) Total number and dollar value of all prime contracts awarded where the prime was found to be in non-compliance and any remedial actions taken including debarment proceedings.

FY 81	FY 82	FY 83
-0-	-0-	-0-

(6) Describe any outreach program that Department of Health and Human Services may have to assist small and small disadvantaged businesses interested in subcontracting with Department of Health and Human Services' large prime contractors.

- We have addressed this question in our full statement to the Committee.

(7) Give the number and dollar value of prime contracts awarded where the goals recited in plans were not met. What is the average goal attainment for both small and small disadvantaged business?

	FY 81	FY 82	FY 83
o Number of contracts where goals not met	This information has not been collected and is not readily available at this time.		
o Average goal attainment small business.	Not Available	76%	71%
o Average goal attainment small disadvantaged business.	Not Available	39%	31%

This information provided by prime contractors via Standard Form 295.

(8) What were your subcontracting goals for the last three fiscal years? Were goals met? If not, explain.

	FY 81	FY 82	FY 83
o Small business	30.9%	43.4%	57.0%
o Small disadvantaged business	8.2%	10.1%	17.8%

HHS exceeded its goal for FY 1981 and 1982. The FY 83 goal appears not to have been achieve.

DEPARTMENT OF HEALTH & HUMAN SERVICES AUG 1 0 1984

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Office of the Secretary
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Washington, D.C. 20201

~~AUG - 8 1984~~

Honorable Parren J. Mitchell
Chairman, Committee on Small Business
2361 Rayburn House Office Building
Washington, D.c. 20515

Dear Mr. Chairman:

This is in response to your letter dated July 19 in which you pose several questions related to my testimony before your Subcommittee on June 28 regarding the Department of Health and Human Services (DHHS) implementation of the Subcontracting Program mandated by P.L. 95-507.

The answers to your questions are enclosed. If can provide any further information, I would be pleased to do so.

Sincerely yours,

Henry G. Kirschenmann, Jr.
Deputy Assistant Secretary
for Procurement, Assistance and Logistics

Enclosure

I. Question

On pages 1 and 2 of your statement you show the share of subcontract dollars awarded to small business going from 69.9% in FY 81 to 39.3% in FY 83. With respect to the share of subcontract dollars awarded to disadvantaged small business, you show 8.9% for FY 81, 19.7% for FY 82, and only 4.4% for FY 83.

a) .I believe the 19.7% you site for FY 82 is a typographical error and what you actually meant to state 13.7% for FY 82. At the bottom of the first page that is attached to your statement, you show 13.7% for disadvantaged business for FY 82.

b) I share your concern about the wild fluctuations in these percentages, but this law has been on the books for nearly 6 years now. You should be in a position to know whether these fluctuations are the result of bad reporting or bad performance, and in either event, corrrection action should have been taken. Why do you still have these problems 6 years down the road?

Answer

a) You are correct, the 19.7% rate cited in my testimony is a typographical error, The correct rate is 13.7%.

b) I believe the wild fluctuations in the percentages I reported are the result of bad reporting. The reason I believe that is the dollar amounts (which I also cited in my testimony and which are less susceptible to misreporting) do not show the fluctuations and are close to what one would have expected given the level of subcontracting opportunities under HHS primes and our efforts to implement P.L. 95-507 in good faith.

The reporting problem results from the ambiguity of Standard Form 295. Although the law has been on the books for six years, the form itself became effective April 1981 and the first submission was not due until July 25, 1981. Thus, for all practical purposes, it has been in use for two years. We brought our problems with the form to the General Services Administration's attention and I understand GSA has been revising it, in part as a result of our concerns. We will also, very shortly institute a procedure to have comparable information from the Standard Form 294 reported to our Office of Small and Disadvantaged Business Utilization directly from our procurement offices so that we can compare the summary data on the S.F. 295 with the individual contract data on the S.F. 294.

2. Question

Thus, far, this Committee has heard testimony from the Departments of the Army, Navy, Air Force, Defense Logistics Agency, Transportation, GSA, Veterans Administration and NASA. You are the first witness to indicate that your prime contractors have a problem understanding the SF 295. What makes your prime contractors less receptive to instructions than the primes employed by the rest of the government?

Answer

Unlike the other agencies that have testified, most of our prime contractors are universities, hospitals and other non-profit organizations, and components of State and local governments. The reporting systems for these organizations do not compile the data required by the S.F. 295. Accordingly, many of these organizations are experiencing difficulty in breaking out and summarizing HHS subcontracting data on an organizational or company wide basis.

3. Question

On page 3 of your statement, you state "There appears to be a scarcity of competitive small disadvantaged business vendors for the medical and laboratory supplies and equipment needed in that research." Have you ever personally met with representatives from minority trade associations in an attempt to find additional minority business subcontractors in this area? If yes, how often?

Answer

Our Office of Small and Disadvantaged Business Utilization in concert with our major acquisition activities conducts an aggressive outreach program in an attempt to locate additional small and small disadvantaged businesses capable of participating in our acquisition programs at the prime and subcontracting levels. We meet and counsel over 100 small and small disadvantaged business representatives each month. In addition, we send written information to over 50 small and small disadvantaged businesses each month. Over the past two years my Department has sponsored 4 marketing seminars for small and small disadvantaged businesses as well as attended and participated in numerous activities of a similar nature sponsored by small and small disadvantaged business trade associations. Over the past several years we have also distributed over 2,500 copies of the subcontracting directory described on page 4 of my testimony.

4. Question

On page 6 of your statement, you say "We have incorporated into our acquisition regulations language which makes the contracting officer responsible and accountable for carrying out the subcontracting program required by section 211 of P.L. 95-507." How is a contracting officer held accountable? When was this language incorporated into your regulations? Is performance in this area a critical performance for your contracting officers?

Answer

The language on the responsibility of contracting officers in carrying out the subcontracting program was originally incorporated in HHS Procurement Regulations (HHSPR) on February 17, 1982. This guidance was actually available even earlier in the form of a handbook on the subcontracting program prepared by our Office of Small and Disadvantaged Business Utilization in April 1980. The guidance thoroughly implemented OFPP Policy Letter 80-2. At the time of the rewriting and consolidation of the Federal Procurement Regulation into the Government-wide Federal Acquisition Regulation (FAR), our language in the HHSPR was essentially incorporated into the FAR.

We hold our contracting officers accountable through a system of pre-award contract approvals and through the insertion of critical elements on the achievement of socio-economic procurement goals in the performance plans of the senior procurement managers. This means that accountability is appropriately placed with the supervisors of the contracting officers who have the overall perspective and wherewithal to affect performance.

Because our procurement activities are supportive of minority and small businesses and we utilize our SADBUS as a check on performance (all prime contracts are reviewed by small business specialists who function independently of the procurement staff), we have felt that the establishment of a special formalized critical performance standard for subcontracting was unnecessary.

We have what I believe to be a good system for identifying those situations which are susceptible to subcontracting and specifically to subcontracting with small and minority businesses. As I indicated in my testimony we have had no instances in this Department of a disagreement between the procurement staff and SBA over subcontracting opportunities in any of the contracts that we have issued.

Mr. MITCHELL. Gentlemen, thank you very much. Two lights, two bells means we must go vote. We stand in recess for 20 minutes?

While we are gone, ponder over something that appears in both of your testimonies.

Colonel Armstrong, you indicated that the share for small businesses from 1981 to 1983 is pretty much the same; it showed an upward trend, then a decline.

The share for small disadvantaged was even more dramatic, and you have indicated the same thing, Mr. Kirschenmann.

You responded by saying that though the percent may have declined, the dollar value has increased, and that might well be in your case, too, Colonel Armstrong.

I am going to raise the question that Mr. Daub, my colleague on the minority side, would raise. One of the intents of this program, or these efforts, is to spread the base, and by uping the share for him, and decreasing the participation percent, aren't you really flying in the face of that objective?

Don't leave me, we will be back.

[A short recess was taken.]

Mr. MITCHELL. I believe we are ready to resume the hearing.

Gentlemen, have you had time to contemplate on the question I posed?

Colonel?

Mr. ARMSTRONG. Mr. Chairman, I think your observation is correct, as far as it went. One of the problems I alluded in my summary was the rather large difficulty you have in establishing goals in this area to begin with.

As you can see, from our goals which are depicted in dollars versus actuals, we shortfell in the small business area. We shortfell in 1981 by a factor of over 100 percent. We were less than half of our goal.

If you look at small business, and in the goal area, we are talking percentages, so when you look at the way the percentages go from year to year, the actual percentages, you have to bump them back against the actual dollars, and you can see that you are sometimes trying to capture smoke in a glass because for example, in 1982, we estimated total subcontracting under contracts that had plans of $178 million, and our actuals were somewhere in the order of $50 million.

One could say that this is not very accurate forecasting, but if you again look at the mix of our procurements and how we accomplish them, it is exceedingly difficult to predict who is going to get a contract, and therefore, it is difficult to predict what kind of subcontracting will be available under that contract.

Mr. MITCHELL. But where you have a pattern, as it appears to be for both agencies, my point is that it is fine that company Y, my company, got a subcontract early on with you in 1981 for $1 million, and then it jumped up to $4 million, the dollar volume increased.

That is fine. I would like to make that money, but I also want to see more small and disadvantaged businesses involved, and what causes me some concern is, is it possible for somebody to sit back in the agency and say, OK, we got Jim and he can always fulfill our subcontracting compliance, we don't have to reach out and find any more.

Mr. ARMSTRONG. If I can summarize on how the Department does its contracting, it might give you a better picture of why we have such a difficulty in terms of accurately predicting the level of subcontracting.

Mr. MITCHELL. No; I will take that at face value as part of the equation, the inability to make accurate predictions.

Mr. ARMSTRONG. I don't think anyone would be able to say that Joe Blow, small business or small disadvantaged business contractor, would be available to help us accommodate whatever size requirement that we had.

Mr. KIRSCHENMANN. I agree with you that one should expect to see a higher percentage of contracts to small businesses, and small disadvantaged businesses over a period of time, by virtue of the fact that these businesses should develop a greater capability for doing business, and a greater ability to get business, and there should be more and more contractors who are capable of doing the work.

The problem with my Department, and with the numbers that I referred to, is that I am not sure they have any substantive meaning at this point.

The numbers we provided you came from the forms 295 submitted by our contractors. What we think is happening on these forms, based on the errors that we found, is that they are giving us the total amount of subcontracts to small businesses awarded under Federal primes, but that the base is their total contracting base, their total procurement base, which includes far more than Federal related reductions.

Mr. MITCHELL. Don't you explain to them that they shouldn't do that?

Mr. KIRSCHENMANN. Yes, sir, we have, and I've said we have been dealing with these people for over 2 years, you would think that they would know how to follow instructions, but that is what they are doing.

I have very little faith in the numbers being given to me by our contractors. At the present time, in my Department, we do not have an information system to allow us to accumulate comparable data based on our 294's, but we will install one this year to make sure these numbers are good.

Mr. MITCHELL. I am so disturbed, is my country beginning to deteriorate, beginning to fall apart? There is no way you can project what your contracts are going to be? You say your primes can't fill out the forms, because they are so complicated.

They don't look very complicated to me, and then you indicated that sometimes there is sloppy work on the part of contracting officers, sometimes sloppy work on the part of the primes.

Mr. KIRSCHENMANN. Not sloppy on the part of the contracting officers. I say the information that we are receiving from the contractors is not reliable.

Mr. MITCHELL. I thought I heard you say that.

Mr. KIRSCHENMANN. If I said it, it is my Brooklyn background coming through.

Mr. MITCHELL. I am concerned about deficits and the debt ceiling and all of that, and I have not subscribed to many of the cutting measures that have been proposed, but if this testimony keeps going the way it has been going, I think they have a new convert.

[A short recess was taken.]

Mr. MITCHELL. Thank you, gentlemen.

Colonel Armstrong, you said it has been your experience that when you send a 10-day notice to a company, a corporation, that there is quick compliance.

Mr. ARMSTRONG. Yes, sir.

Mr. MITCHELL. In how many instances have you had to do that?

Mr. ARMSTRONG. In this area, not at all. Our experience has been that when we discovered a violation in time, where it made some sense to do a correction on it, we were able to gain compliance.

Mr. MITCHELL. Was it your experience in your other position? You said it has been your experience.

Mr. ARMSTRONG. As a tactic, oh, yes, sir. I was a DOD contracting officer.

Mr. MITCHELL. Not in your present position?

Mr. ARMSTRONG. No, sir, not in my current position, I am not a contracting officer.

Mr. MITCHELL. Mr. Kirschenmann, you said there appears to be a scarcity, how many times have I heard that, of competitive small disadvantaged businesses for medical supplies and laboratory equipment, and whatnot.

You said you met with the prime contractors to get more information on this. Have you ever met with any of the minority associations?

Mr. KIRSCHENMANN. Yes, sir.

Mr. CLINKSCALES. We have met with most of the trade associations in the area, sir. We have met with representatives from the National Business League, the Latin American Manufacturers Association, National Association of Minority Contractors, just about every one of the existing trade associations.

Mr. MITCHELL. When is the last time you ran through a series of meetings like that?

Mr. CLINKSCALES. At least about a year and a half ago.

Mr. MITCHELL. You are planning to do it again. Maybe you want to update your roster a little and perhaps you can find a few more minority trade associations.

Mr. CLINKSCALES. Yes, sir.

Mr. MITCHELL. Colonel Armstrong, tell us approximately how many large prime contractors Interior deals with which are awarded one or more contracts a year, I mean contracts covered under Public Law 95-507.

Mr. ARMSTRONG. Let me give you sort of a fast estimate. I think in 1983, there were about 79 contractors that were awarded contracts that exceeded the $500,000 threshold.

I am sorry, we had 290 new definitive contracts of $500,000 or more, but I want to point out that 155 of those went to small business.

Mr. MITCHELL. Did you say 105 of those want to small business.

Mr. ARMSTRONG. Three of those were construction contracts of less than $1 million.

Mr. **Mitchell**. OK, but what I am trying to get at is where you indicate that you are conducting on an average, two program management reviews a year.

Mr. **Armstrong**. That is a resource problem, Mr. Chairman, and if I might, I would like Charlotte Spann whose office conducts those program reviews to answer that.

Mr. **Mitchell**. OK, and I will let you answer in just a moment, but 290 and 105 of those were small business.

Mr. **Armstrong**. 155. It was another three that were construction contracts which were higher.

Mr. **Mitchell**. Say you had 100.

Mr. **Armstrong**. Seventy-three.

Mr. **Mitchell**. Seventy-three, and you are doing two program management reviews each year, Ms. Spann?

Ms. **Spann**. In response to your question, we have roughly a half a dozen contractors who repetitively receive awards requiring subcontracting plans. I think five of those are construction contractors, so we have very few, because our average contract value runs around $122,000, and that is one reason why we have been making two program reviews of prime contractors each year.

We conduct approximately six reviews of our own contracting agencies. However, until this past year, we were severely understaffed, and because of the budget cuts, et cetera, we are now up to staffing and we have undertaken the additional contracting office and prime contractor reviews.

Mr. **Mitchell**. Would the 73 be subject to a review?

Ms. **Spann**. Not all of them.

Mr. **Mitchell**. Give me a percentage that might be subject to a review?

Ms. **Spann**. A portion of the 73 contractors that would be subject to review, probably about half of them. That is a guesstimate.

Mr. **Mitchell**. Yet, you have only been able to do two a year? That means maybe 33 people are committing all kinds of skullduggery.

Ms. **Spann**. The business utilization and development specialists are in the areas where we have the highest contracting activities, and those individuals are also reviewing the contractors on a much more frequent basis, particularly those that have repetitive contracts with us.

Most of them are not getting by without any kind of oversight at all, and we do plan to increase our oversight beginning with fiscal year 1985.

Mr. **Mitchell**. I guess the bottom line is that the oversight has been deficient.

Ms. **Spann**. Yes, sir; that is exactly right. It has not been what we would have wanted it to be at all.

Mr. **Mitchell**. Mr. Kirschenmann, you have incorporated into your acquisition regulation language which makes the contracting officer responsible and accountable for carrying out the subcontracting program required under 211 of the Public Law.

How is your contracting officer held accountable, the specific terms?

Mr. **Kirschenmann**. He is held accountable by his normal responsibilities as a contracting officer. The specific requirements are cited in the OFPP Instruction 80.2, which we have incorporated, and the goals and responsibilities are established in the chief contracting officers' performance plans.

Mr. MITCHELL. Wouldn't it kind of make sense to add that as a kind of critical performance standard in terms of evaluating your contracting officers? Think that might be a nice idea?

Mr. KIRSCHENMANN. We could look into that, yes, sir. We have so many of these requirements, perhaps we could make them critical as a group.

Mr. MITCHELL. I don't want to put any heavy burdens on the overworked contracting officers.

Mr. KIRSCHENMANN. I do.

Mr. MITCHELL. Oh, well, then, fine.

Mr. KIRSCHENMANN. I do, and have.

Mr. MITCHELL. Being quite serious for a moment, again, I go back to my earlier statement, much that relates to small and small disadvantaged business is not considered a high priority, it is not, and one of the ways to make it a high priority is to make that a critical point, in your evaluation of your contracting officers.

Mr. KIRSCHENMANN. We can do that. We consider it a high priority, though, Mr. Chairman.

Mr. MITCHELL. Colonel Armstrong, I want to get back to this problem of what might be low balling or something like that. We asked for some of your largest contracts in preparation for the hearing.

In 1982, the Bureau of Reclamation awarded a contract to Newberry Contractors, Inc. of Phoenix, AZ. According to the first form, SF-294, dated October 1982, the prime contractor had a base value of $8.2 million.

The estimated value of all subcontracts was stated at $1.7 million.

The goals to small business was $170,000, or 10 percent, and the goal to small disadvantaged businesses was $85,000, 5 percent.

This same SF-294, the same one, shows that during the first 6-month period, actual subcontracting was $5.2 million, and actual subcontract awards to small business was $1.1 million, 10 times above the stated goal.

How do you explain these, figures and what I must call gross inconsistencies?

Mr. ARMSTRONG. Well——

Mr. MITCHELL. Was there an incentive clause in this contract?

Mr. ARMSTRONG. No, sir; we have very few situations where an incentive clause is considered to be appropriate.

Mr. MITCHELL. How do you explain this? If the Congress says, we have a deficit of, say, $1 trillion, and we announce that to the papers and somebody comes in and says, look, you guys lied to us, it is $3 trillion, we would all be voted out of office. How do you explain that?

Mr. ARMSTRONG. One possible way of explaining it, and I don't know if there is a good explanation for the case you just cited, but we go back to the nature of the business, that was a construction contract, part of our advertised procurement program.

This gets to the difficulty with which agencies set their goals and at the outset, as well as contractors who are in that kind of environment setting their goals.

This is price competition. He is expected to set goals at a time when he doesn't have his subcontractor in place. Many times he is still trying to find better ways to become more competitive. He is awarded the contract on the basis of dollar costs.

Mr. MITCHELL. That is not really the inconsistency. The different figures appeared on the same form, so there was no time intervention.

Ms. SPANN. Might I take a stab at this one? When the prime contract is awarded, very often the contractor determines that he is going to do a certain amount of work with his own forces, in the case of construction.

When the contract is awarded, for reasons known only to the prime contractor, he decides to subcontract more of that work than he had intended when he submitted the bid. Now, we have to assume that is a business decision made by the prime contractor to subcontract.

Mr. MITCHELL. I am sorry. That doesn't do me any good. If he submitted another form a year later, I could see the variation in figures, but here you have it right on the same form.

Mr. ARMSTRONG. I understand, Mr. Chairman. But that goal is established at the time he establishes his plan and submits it to the contracting officer, which is with his proposal, in this case, it is a bid. This is compared to his actual subcontracting.

Now, in the first place, on an advertised construction contract, you can't negotiate those goals. This is part of the problem. The requirement of the law and the regulation is for him to enter a goal and so, he enters a goal, and in this case, he entered a goal of $170,000.

To me, particularly based on what he actually did, that is just insufficient, but we don't have a way to get him to the table to negotiate a responsible, reasonable goal.

Mr. MITCHELL. Then I would be forced to conclude that the guy is saying, this isn't important, throw any old figure in there and we get the contract. I would be forced to conclude that.

Mr. ARMSTRONG. I don't know if I can conclude that, Mr. Chairman.

Mr. MITCHELL. I can.

Mr. ARMSTRONG. I would have to be able to get into his head to see what he determined that he wanted to do at the outset of that contract.

Mr. MITCHELL. Thank you very much for being with us.

Mr. ARMSTRONG. Thank you, Mr. Chairman.

Mr. MITCHELL. I have some other questions I will submit to you rather than keep you. The questions will be for both of you.

Mr. KIRSCHENMANN. Thank you, Mr. Chairman.

Mr. MITCHELL. Our last panel, the second panel, consists of Thomas J. Davin, Deputy Director, Procurement and Assistance Management, Department of Energy; and Ralph Olmo, Acting Deputy Under Secretary for Management at the Department of Education.

Thank you for rather comprehensive testimony that you submitted to us. We will enter your entire testimony into the official hearing record. You may proceed, Mr. Davin.

TESTIMONY OF THOMAS J. DAVIN, DEPUTY DIRECTOR, PROCUREMENT AND ASSISTANCE MANAGEMENT DIRECTORATE, DEPARTMENT OF ENERGY, ACCOMPANIED BY JOHN W. SHEPARD, DIRECTOR, OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION, DOE

Mr. Davin. I have with me today Mr. John Shepard, who is head of our Office of Small and Disadvantaged Business Utilization.

I will talk about the mission and activities of our agencies, because they are very important in our efforts to have a good record in small and minority business.

We probably have one of the most diversified scientific and technical agencies of any in the Government. We are different than most other agencies in the sense that DOE is not a consumer of the technology that it develops, and it does not procure production quantities of hardware for its own use like airplanes and tanks.

With the exception of our national defense activity, the Department of Energy spends its funds as a catalyst for technical development. The Department is involved in basic and applied research in a very wide range of areas, including nuclear, solar, geothermal, fossil energy, and conservation.

We run a number of large multi- and special-purpose laboratories that have unique scientific capability.

For example, the Fermi National Accelerator Laboratory in Illinois, Brookhaven National Laboratory in New York, and Los Alamos National Laboratory in New Mexico.

One of our primary missions is national defense, including research, development and production and testing of nuclear weapons. It also includes research and development and production of naval nuclear propulsion plant and the reactor cores that are used in the Navy's nuclear ships and submarines.

Our other defense-related activities include the management of the strategic petroleum reserve and the naval petroleum reserve facilities.

We are also in the electric business, and we distribute and sell electricity through our five power administrations.

The Department relies very heavily on the contracting process. We practically spend all of our dollars through contracts. Because our activities are so diverse and our labs are located all over the country, the agency is run on a decentralized basis. We utilize 19 major procuring activities across the country, and these offices in turn have a number of subactivities.

In relying on contracts, we put particular reliance on the management and operating type contract, and a substantial majority of our contracting budget is obligated through this type of contract.

Because our management and operating contracts play such an important role in our program, and in our minority and disadvantaged business activities, I would like to give you some background on them.

The concept was originally created in the Manhattan Engineering District, a part of the atomic bomb project during World War II and further refined by the Atomic Energy Commission, a predecessor to DOE.

We use this type of contract now to run virtually all of our major scientific, technical and test facilities, such as the nuclear weapon plant and the national laboratories I referred to earlier.

These contracts are designed to bring the scientific and technical management know-how of private industry and academia to our major missions in a long-term, cooperative relationship.

Over the years, they have had a very remarkable record of scientific and technical success, and we believe they have also made a major contribution to our socioeconomic programs.

At this point, I would like to say a few words about DOE's overall record in the small and disadvantaged business area. In 1983, of the $9.9 billion procurement subject to Public Law 95-507, approximately $2.2 billion, or 22.1 percent, went to small businesses. Approximately $270 million, or 2.7 percent went to disadvantaged businesses.

A substantial amount of this was done at the subcontract level. In the subcontracting area, the Department was one of the first civilian agencies to implement Public Law 95-507 by issuing policy guidance in February 1979. We are the only civilian agency to subcontract more than $100 million a year to disadvantaged businesses.

Last year, DOE's prime contractors subcontracted over $3.7 billion, of which $1.9 billion, 51 percent, was awarded to small business, and over $163 million, 4.4 percent, was awarded to disadvantaged businesses.

A major part of this record has been accomplished by our management and operating contractors. In fiscal year 1983, they received $8.5 billion of the DOE contracting budget. Of that amount, $3.3 billion was subcontracted. These contractors awarded 46.8 percent of their subcontract dollars to small business and 3.9 percent to disadvantaged businesses.

In our regulations concerning our management and operating contracts, we have made some provisions to encourage them in the small and disadvantaged business area. Our procurement regulations require that subcontracts of $10,000 or less awarded by management and operating contractors be reserved for small business, where there is a reasonable expectation that small businesses can provide competitive market prices, quality and delivery.

We require all construction subcontracts awarded by our management and operating contractors of $3 million or less, to be set aside for small business concerns. In addition, we have authorized 175 mandatory class set-asides for our management and operating contracts.

We also require the contractors to publicize in the Commerce Business Daily subcontract opportunities of $100,000 or more. One of the problems that we do have is because of the high technology requirements of these contractors, it is difficult for them to locate qualified small and disadvantaged businesses to award subcontracts. Consequently, we tried to have outreach programs to help develop small and disadvantaged business opportunities. We sometimes call these efforts front-end programs.

Many of our operating contractors have such activities, such as General Electric, Rockwell, where they meet with the small and disadvantaged business communities to help develop their expertise.

The Los Alamos National Laboratory just put on a seminar called EXPO 1, at which they invited small and disadvantaged firms to have one-on-one exchanges with engineers and scientists to discuss the technologies of the laboratory. The purpose was more to get in and talk details as opposed to just having some lectures.

The seminar was very successful, and Los Alamos is planning EXPO 2 early this month, and Sandia National Laboratory just conducted a similar seminar.

Another front end activity which we think is very important is our implementation of the Small Business Innovative Research Act. The program is very important to a scientific and technical agency such as ours in that it contributes to the development of the long-term capability of small and disadvantaged firms to participate in our programs.

Mr. MITCHELL. I remember you guys fought us on that, didn't you?

Mr. DAVIN. Yes, sir, but we got the message.

We were the first agency in the Federal Government to issue an SBIR solicitation. We developed a model contract intended to keep the contract provisions to a minimum and simple, to make it easier to be used.

We have 1,700 proposals which were submitted resulting in the first phase I award to 106 small businesses and 14 disadvantaged businesses.

Awards totaled almost $5 million last year. This year, we are having phase II award where some of the phase I firms will be awarded follow-on contracts. A new solicitation was issued earlier this year. We expect this year to spend about a total of about $15 million in the program.

I have submitted a description of projects that have already moved into phase II of the program. We believe this program is particularly important, because it is out of this type of activity that we will be able to have more sources to draw from in the long run.

In addition, the Department is cosponsoring with the National Science Foundation two small and disadvantaged research and development conferences, which will be held in Denver and Philadelphia in the fall.

Another problem that we have, Mr. Chairman, is that some of our locations are relatively isolated, making it more difficult to identify available small and disadvantaged firms for our work. Our Richland, WA, complex has been cosponsoring for the last 3 years, with its major operating and prime contractors located there a series of small and disadvantaged business conferences, with the object of acquainting the businesses of the Pacific Northwest with the opportunity for prime and subcontract awards. These conferences are titled Partnership in Trade, and have been attended by over 1,000 companies each year, so we feel they have been very successful.

Mr. Shepard's Office of Small and Disadvantaged Business Utilization conducted their fourth annual conference in New Orleans, LA.

One of the objectives was to emphasize active support of the President's Minority Business Development Program, in which the President directed executive agencies to bring about a climate in which minority business can prosper and contribute to national economic growth.

In response to the President's goal, the Department announced a goal of a 10-percent increase in disadvantaged business. We met that goal with an 11.6-percent increase in the year.

Mr. MITCHELL. From what to what?

What was the goal before that? An 11-percent increase, all right.

Mr. DAVIN. The program set up a goal for the year of 1983, that we would have a 10-percent increase for the year, from what we had before and we made it; we actually achieved 11.6.

Mr. MITCHELL. I shouldn't have interrupted you, but I am kind of disadvantaged, socially and economically disadvantaged. What I am trying to get at is if you increased your goal by 11 percent or 10 percent, if your base was 1 percent or 0.5 percent, then an 11-percent increase is not very significant. What was your base?

Mr. DAVIN. The base was $242 million and we increased it to $270 million. Is that responsive?

Mr. MITCHELL. Yes; please go ahead.

Mr. DAVIN. In June 1983, the Secretary, for the fifth straight year, honored 19 DOE organizations and 27 of the management and operating contractors under the Secretary's Small Business and Disadvantaged Business Awards Program. The goals were exceeded by at least 20 percent, and also demonstrated that they had an aggressive socioeconomic program. They were personally presented plaques by the Secretary.

Another area where we have made a contribution in the small business area is in the sale of petroleum products of the national petroleum——

Mr. MITCHELL. There is a recorded vote. We will let my colleague, Mr. Hayes, go and come back and then I will go. This is the conference report on NASA. Go ahead.

Mr. DAVIN. There is the small business participation in our sale of petroleum product from the naval petroleum reserves. The Secretary by law is authorized to sell up to 25 percent of the petroleum product to small refiners.

The Department has consistently done this. Last year, we sold over $237 million of petroleum products to small refiners.

Another example of what we are trying to do in the front end is a test program we have just started at our Chicago operations office. We have taken two of our major cost-type contractors, and set up this program whereby they will have a restricted subcontract competition for disadvantaged businesses.

Already, one of our contractors, Argonne National Laboratory, outside of Chicago has awarded a construction contract for $2.2 million after a competition among 12 disadvantaged businesses.

We will be happy to share with the committee the full results of this pilot program when it becomes known.

Mr. MITCHELL. Are you summarizing?

Mr. DAVIN. Yes, sir, I am done right now.

Mr. MITCHELL. OK.

Mr. DAVIN. We have two recommendations that we would like to make to the subcommittee. We believe that the 8(a) program or some version of it ought to be permitted at the subcontract level for large type contracts like our management and operating contracts.

Right now, we cannot make an 8(a) sole-source award at the subcontract level. In fact, we have proposed such a program to the Civilian Agency Acquisition Research Council as a test.

We would also propose this to the Small Business Administration, that we be permitted to conduct a control test at our management and operating contractors.

We also support the recommendation that there should be an increase in the small business set-aside threshold from $10,000 to $25,000 to coincide with the recent increased small purchase threshold.

We believe we have a good record in view of the nature of our scientific and technical work and we know we can improve and intend to do better in the future.

Mr. MITCHELL. Thank you for your recommendations. We will consider them very carefully.

[Mr. Davin's prepared statement with attachments follow:]

PREPARED STATEMENT OF THOMAS J. DAVIN, DEPUTY DIRECTOR, PROCUREMENT AND ASSISTANCE MANAGEMENT DIRECTORATE, DEPARTMENT OF ENERGY

Good morning, I am Thomas J. Davin, Deputy Director, Procurement and Assistance Management Directorate, for the Department of Energy (DOE). With me today is John W. Sheppard, Director of our Office of Small and Disadvantaged Business Utilization. I am pleased to appear before you today to discuss the Department's implementation of Section 211 of Public Law 95-507. You had asked that my statement include responses to specific questions. Since that information is primarily statistical data, I have attached it as part of my written statement.

I would like to begin my testimony by providing some background on the activities of the Department which are extremely varied and somewhat different from other Federal agencies. DOE is generally not a consumer of the technology it develops nor does it procure production quantities of hardware for its own use. With the exception of national security activities, DOE spends its Federal funds primarily as a catalyst for technology development. The DOE is involved in basic and applied research in a wide range of technology areas such as nuclear energy, solar, geothermal, fossil, civilian and defense nuclear waste management, and conservation. The Department operates a number of multi- and special purpose national laboratories which have unique scientific facilities, such as the Fermi National Accelerator Laboratory in Illinois, Brookhaven National Laboratory in New York, and Los Alamos National Laboratory in New Mexico. One of DOE's primary missions is the support of national defense. This includes the research, development, production, and testing of nuclear weapons. It also includes research and development and production of naval nuclear propulsion plants and reactor cores. Other defense related activities are the management of the Strategic Petroleum Reserve and the Naval Petroleum Reserves facilities.

The Department is also in the electric business. DOE distributes and sells electricity through our five power administrations, such as, Bonneville Power Administration and Western Area Power Administration.

To accomplish its mission, the DOE relies heavily on the contracting process. Because of the wide diversification of its programs, the Department has taken a decentralized management approach. It utilizes 19 major procuring activities across the country.

In its contracting activities, the Department places particular reliance on the use of the management and operating type contracts. A substantial majority of our procurement budget is obligated through this type of contract.

Since these contracts play such an important role in our program, I would like to give you some background on them.

The management and operating contractor concept evolved from the Manhattan Engineering District's Atomic Bomb Project during the Second World War and was refined by the Atomic Energy Commission, a predecessor to DOE.

Essentially, the DOE uses its management and operating contractors to manage its major research, development, production and testing facilities. These include facilities such as our national laboratories and the various plants and facilities used in our nuclear weapons and naval reactors programs noted above. These contracts are designed to dedicate the scientific, technical and management "know how" of private industry and academia to our major missions in a long-term cooperative relationship. Over the years these management and operating contractors have had a remarkable record of scientific and technical success. Their contribution to our small and disadvantaged business program has also been noteworthy and I will discuss this in some detail later in my testimony.

At this point I would like to say a few words about Mr. Shepard's organization, our Office of Small and Disadvantaged Business Utilization. This office was established as required by the Small Business Act. It was placed in a direct reporting and responsibility relationship to the Office of the Secretary. The Office's primary responsibility is oversight of Departmental activities relating to Sections 8 and 15 of the Small Business Act, plus various Executive orders and other Federal actions relating to small business. It is responsible for promoting and monitoring DOE acquisition-related activities on behalf of small businesses, disadvantaged businesses, labor surplus area concerns and women's business enterprises. This Office apprises the Department's executive leadership of needed changes in policy or procedures and of opportunities to better serve small and disadvantaged businesses.

The Office of Small and Disadvantaged Business Utilization maintains a close cooperative relationship with the DOE procuring offices. Each procuring activity has designated a person to serve as the small and disadvantaged business specialist. These specialists interface with local SBA representatives, conduct and monitor the socio-economic programs for their offices and provide outreach activities for local area firms.

Before discussing our subcontracting activities, I would like to cover DOE's overall performance in relation to small and disadvantaged businesses. We believe we have a good record, and it is a record that to a large extent is based on our subcontracting activities, primarily because of our programmatic reliance on management and operating contracts.

Our data indicates that in FY 1983, of 9.9 billion procurement dollars subject to Public Law 95-507, approximately $2.2 billion, or 22.1% went to small businesses. Approximately $270 million, or 2.7%, went to disadvantaged businesses. As we will show, a substantial portion of these amounts include reported subcontract dollars.

Our record for the previous five years is as follows:

	Small Businesses	Disadvantaged Businesses
FY-79	15.9%	1.6%
FY-80	20.9%	3.1%
FY-81	19.6%	2.4%
FY-82	20.4%	2.4%
FY-83	22.1%	2.7%

In the subcontracting area the Department was one of the first civilian agencies to implement Public Law 95-507 by issuing policy guidance in February 1979 to our procuring activities. It is my understanding that DOE is the only civilian agency to subcontract more than $100 million a year to disadvantaged businesses. Last year DOE's contractors subcontracted over $3.7 billion of which $1.9 billion, 51%, was awarded to small businesses and over $163 million, 4.4%, was awarded to disadvantaged businesses.

As I noted earlier, our management and operating contractors' performance represents the heart of our subcontracting program. In FY 1983 our management and operating contractors received over $8.5 billion in DOE obligations. They awarded 46.8% of their subcontract dollars to small businesses and 3.9% to disadvantaged businesses.

FY 1983

(Dollars in Millions)

Total obligations to M&O Contractors	$8,520	
Subcontract obligations	$3,348	
Small Businesses	$1,567	(46.8%)
Disadvantaged Businesses	$ 131	(3.9%)

The basic subcontract plans for our management and operating contracts are negotiated for the terms of the contract, generally a five-year period, with the goals being revised annually. These plans are available for review and approval by SBA. DOE's acquisition regulations require that subcontracts of $10,000 or less awarded by management and operating contracts be reserved exclusively for small businesses when there is reasonable expectation that small businesses can provide competitive market prices, quality, and delivery. In addition, we have required that all construction contracts awarded by management and operating contracts of $3 million or less be set-aside for small business concerns. Other set-asides for small businesses are allowed and encouraged, and in fact we have authorized 175 mandatory class set-asides for supplies and services that must be restricted to small businesses regardless of dollar value. We also require our management and operating contractors to publicize in the Commerce Business Daily subcontract opportunities of $100,000 and above.

Our management and operating contractors are committed to increasing small and disadvantaged business participation and have taken the initiative to go beyond subcontract awards in an attempt to assist small and disadvantaged businesses. Recognizing that nuclear weapons production facilities require highly specialized techniques, it has often been difficult to locate small and disadvantaged businesses with capabilities in some of these high technology areas. However, in order to foster increased participation by these firms, our management and operating contractors, such as, Monsanto Corporation, General Electric Corporation, and Rockwell International Corporation, have undertaken activities aimed at increasing interest and capabilities of small and disadvantaged firms so that they can be in a position to compete on these contracts. A typical example is a seminar recently conducted by the Los Alamos National Laboratory they called EXPO-1 in which they invited specific small and disadvantaged firms to have a one-on-one exchange with engineers and scientists to discuss technologies at the laboratory. This seminar was so successful that Los Alamos conducted EXPO-2 early this month and Sandia National Laboratory just conducted a similar seminar. These are the kinds of activities that we refer to as "front-end" activities which we anticipate will result in increased participation in the future.

Another "front-end" activity that expands the opportunities for small and disadvantaged businesses is the Department's implementation of the Small Business Innovation Development Act. The small business innovation research (SBIR) program offers an opportunity for small and disadvantaged research firms to enhance their skills, contribute to areas of interest to the Department, and, in the process, help transfer the results of DOE supported research and development into the marketplace.

The Department has been a leader in this area. We were the first agency in the Federal Government to issue its SBIR solicitation. We developed a model contract intended to keep contract provisions to a minimum and provide a mechanism for continuity between Phases I and II of this program.

Over 1700 proposals were submitted in response to DOE's first SBIR solicitation resulting in 106 small business awards, including 14 disadvantaged business research firms. The awards totaled almost $5 million, averaging $47,000 each. Thus far 24 of the Phase I awardees have been selected to continue into Phase II at an average of $420,000 over a 2 year period. Additional Phase I awardees will be selected for Phase II late this summer. Over 840 proposals were received in response to the second SBIR solicitation which was issued early this year. Evaluations are going on now with selections to be made by the end of July.

We are very encouraged by the results of this program, and I am submitting to the Committee for the record a description of the projects that have already moved into Phase II of the program. We expect this program will increase the ability of disadvantaged business firms to compete successfully for future prime and subcontract awards.

Additionally, DOE will be the co-sponsors with the National Science Foundation of two small and disadvantaged research and development conferences to be held in Denver and Philadelphia this fall. For the last three years the Department's Richland Operations Office in Washington state and its major prime contractors have co-sponsored a series of small and disadvantaged business conferences with the objective of acquainting the businesses of the Pacific Northwest of the opportunities for prime and subcontract awards. The conferences titled "Partnerships in Trade" have been attended by over 1000 companies each year.

In March 1983, the Office of Small and Disadvantaged Business Utilization conducted their fourth annual conference in New Orleans, Louisiana. One of the objectives was to emphasize active support of the President's Minority Business Development program in which President Reagan directed executive branch agencies to bring about a climate in which minority business can prosper and contribute to national economic growth. In January, in response to the

President's development program, DOE announced a 10% increase in its small and disadvantaged business goal. Because of the emphasis given the program, at the conclusion of FY 1983 the Department had actually exceeded its goal by attaining an 11.6% increase over its FY 1982 disadvantaged business contracting level.

In June 1983 the Secretary, for the fifth straight year of the program, honored 19 DOE organizations and 27 prime contractors under the Secretary's Small Business and Disadvantaged Business Achievement Award Program. Those organizations and contractors exceeding assigned goals by at least 20% and who have demonstrated that they have an aggressive socio-economic program received recognition plaques from the Secretary.

DOE has implemented system reviews of our procuring activities and major prime contractors in lieu of monitoring contracts on a transactional basis. DOE's Procurement Management Assistance Review team reviews our procuring activities' general implementation of socio-economic programs. The Office of Small and Disadvantaged Business Utilization has provided representatives on these teams to review the socio-economic activities and this augmentation will be increasingly emphasized in the future. The various procuring activities in the field also have Contractor Procurement System Review programs which conduct reviews of prime contractors' procurement systems, including implementation of socio-economic programs.

Also of significance is the small business participation in our sale of petroleum products of the Naval Petroleum Reserves. The Secretary is authorized by law to sell up to 25% of the petroleum products to small refiners. The Department has consistently done so. Last year DOE sold over $237 million of petroleum products to small refiners.

Another example of this Department's innovative approach to increasing small and disadvantaged business participation is a one-year test program which we have authorized to be conducted at our Chicago Operations Office by two major cost-type contractors that we hope will result in increased awards to disadvantaged businesses. The program allows the contractors to use a restricted competition for disadvantaged businesses. A construction contract for $2.2 million has already been awarded by Argonne National Laboratory after a competition among twelve disadvantaged firms. We will be happy to share with the Committee the full results of this pilot program as they become known.

We have included for the record the responses to the eight questions that were asked in your letter of May 4, 1984, and the recommendations of House Report 97-956 regarding implementation of section 211 of Public Law 95-507.

I have described the major points and achievements of our socio-economic programs as they exist today. However, these are dynamic programs. We believe that the future holds opportunities for improvement. We expect that the changes in the procurement system mandated by Public Law 98-72 will result in an increase in small and disadvantaged business awards. We expect also to be able to do more in this area. For example, as requested we have provided the Committee copies of subcontract plans for specific contracts. This exercise brought to our attention that some of our contractors have some deficient or non-existent plans. We are individually highlighting these problems to the cognizant procuring activities, and they are responding to rectify each individual situation.

In regard to the implementation of Public Law 95-507 on a Government-wide basis, we would recommend two policies that we believe would further increase awards to small and disadvantaged businesses. We believe the 8(a) program of awarding contracts on a noncompetitive basis to disadvantaged businesses or a similar program of a restricted competition among disadvantaged businesses should be extended to our contractors with subcontract plans, or at least management and operating contracts with subcontract plans. In fact, we have proposed such a program to the Civilian Agency Acquisition Research Council to test that concept, and we will propose to SBA that we conduct a controlled test program limited to our management and operating contracts. Also, we would support an increase in the small business set aside threshold from $10,000 to $25,000 to coincide with the recently increased small purchases threshold.

I will be happy to answer any questions of the Committee at this time.

Responses to Recommendations in House Report 97-956

1. "Report to this committee on a quarterly basis, the following information:
   (a) Number and dollar value of contracts awarded during the quarter which contain subcontracting plans;
   (b) Number and dollar value of contracts awarded during the quarter which do not contain plans, but which, by law, should have plans;
   (c) The number of plans reviewed by SBA during the quarter, the number SBA found deficient but which were not corrected to SBA's satisfaction; and
   (d) The total number and dollar value of all subcontracts awarded during the quarter and the dollar value and percent of subcontracts awarded to small business and to small disadvantaged business."

The Department collects the information on subcontract amounts awarded to small businesses and small disadvantaged businesses for those contracts having plans only. This information is currently provided to Congress in an annual report. This data could be provided to the Committee on a quarterly basis; however, we believe that increasing the frequency of reporting would be unnecessarily costly, burdensome, and would not effect an increase in small business awards. We can provide the Committee information concerning SBA's reviews, however, the SBA would be a more logical source for information regarding the number of plans they reviewed and the results of their reviews.

2. "Provide SBA with adequate and timely information with respect to the award of contracts covered by section 211."

DOE follows the Federal Acquisition Regulation in regard to notifying and providing information on subcontract plans to SBA regional offices and local representatives. To our knowledge this is being accomplished in a timely manner.

3. "Commence contract debarment proceedings against any contractor who is determined to have violated more than one plan. Exceptions should only be made by the President upon a finding that national security will be impaired if the contractor is debarred. In such a case, other severe remedies must be imposed."

We believe the recommendation has been too broadly stated for actual implementation. The DOE is unaware of any contract violations of the type and magnitude referenced. We are committed to working to solve any problems before we get to the point of debarment proceedings.

4. "Include in the personnel performance standards of all ACO's and PCO's stringent requirements for the expeditious and vigorous enforcement of the subcontracting program. Such a standard should be denominated as "critical" so that failure to achieve the standard can result in separation from Federal service."

The Department of Energy has not required that performance evaluations for contract specialists include a critical factor of "expeditious and vigorous enforcement of the subcontracting program." There are so many individual tasks and responsibilities of a contracting officer such as enforcing subcontract plans that to address them as individual evaluation factors is inappropriate. However, those persons in management positions, such as the directors of our procuring activities who are ultimately responsible for small business participation and those persons whose positions are primarily involved with the socio-economic programs, do contain evaluation factors based on socio-economic performance.

Responses to Questions of the Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems

(1) Number and dollar value of contracts awarded during the last three years which contained subcontracting plans.

There were 671 contracts totaling $23.7 billion awarded during the last three years which contained subcontracting plans. This number includes modifications made in FYs 1981, 1982 and 1983 to contracts which were awarded prior to FY81.

(2) Number and dollar value of contracts awarded during the last three years which did not contain subcontracting plans, but which were required by law to contain such plans. What corrective action was taken regarding these awards? How many contracts have not been modified to include plans?

Our review indicated that there were nine contracts in the period FY 1981 through FY 1983 that should have contained subcontracting plans that did not. The total dollar value of these contracts was approximately $43 million.

Six of the contracts have been completed and no corrective action is possible. Included in this group were two task orders that were actually performed under a contract with a subcontract plan; a contract with a non-profit organization; and a contract for drilling services.

Two active contracts to nonprofit organizations, the Council of Energy

Resource Tribes, and Leland Stanford University, will be modified to include subcontract plans. The other contract one for $17 million, has already been modified to include a subcontract plan and the contractor is in compliance.

(3) How many plans did SBA review during the last three years? What was the number found deficient and dollar value of such contracts?

A survey of our procuring activities indicated that SBA reviewed 428 plans during the last three years of which six were found to be deficient. The total dollar value of the six contracts was $36,371,893. All noted deficiences were corrected and the plans were subsequently approved by SBA.

(4) Total dollar value of all subcontracts awarded during the last three years under prime contracts containing plans and the dollar value and percentage of subcontracts awarded to small and small disadvantaged businesses.

The total value of all subcontracts awarded during the last three years under prime contracts containing plans was $11.1 billion. Of this amount, $4.7 billion representing 42.3% went to small businesses and $408.3 million representing 3.7% went to disadvantaged businesses.

(5) Total number and dollar value of all prime contracts awarded where the prime was found to be in noncompliance and any remedial actions taken including debarment proceedings.

There were two contractors found to be in noncompliance with their plans. In one case the noncompliance was the result of administrative deficiencies in recordkeeping and not a failure to submit reports or a failure to progress toward the goals. In the other case the contractor failed to demonstrate reasonable or meaningful progress toward goals within the past year. The contractor's performance was considered in negotiations for the next year by reducing the total fee of $410,026 by $22,700.

Deficiencies have been corrected in both cases.

(6) Describe any outreach program that Department of Energy may have to assist small and small disadvantaged businesses interested in subcontracting with Department of Energy's large prime contractors.

We do not believe that DOE could have been as successful in obtaining the participation of small and disadvantaged businesses without our outreach activities. In addition to some of the outreach activities of our contractors mentioned in our testimony, the following activities are representative of the types of outreach activities that DOE has initiated.

o DOE's Annual Small and Disadvantaged Business Conference which is scheduled for August this year brings together the small and disadvantaged business specialists from DOE to discuss new techniques, programs, and obstacles to improving the Department's performance in the socio-economic areas.

o The Richland Operations Office with its major contractors have held conferences in Richland, Washington, to promote their programs to the area's small and disadvantaged businesses. These were considered to be highly successful with over 1000 companies attending each year.

- Our contractors have access to DOE's Procurement Automated Source System (PASS) which uses key words to match subjects and small and disadvantaged business firms. The Department worked with SBA to expand the system by adding nuclear, defense programs, and energy research key words.
- The Department's implementation of the Small Business Innovation Research (SBIR) program has provided very encouraging projects that may ultimately result in subcontracting efforts from our large prime contracts.
- Two of our major cost type contractors were recently selected to participate in a test program that will allow a restricted competition for disadvantaged businesses. To date a construction contract of $2.2 million has resulted.
- DOE will be the co-sponsors with the National Science Foundation of two small and disadvantaged research and development conferences to be held in Denver and Philadelphia this fall.
- The DOE believes that the Congressionally-Sponsored Federal Procurement Conferences are an important part of our outreach activities. In most cases, DOE staff participated in these meetings, from the nearest DOE field activity, or from Headquarters. In CY 1983, 21 conferences were scheduled and in CY 1984 there were 32. In addition, there were 14 other conferences that the small and disadvantaged business specialists attended during this time period.

(7) Give the number and dollar value of prime contracts awarded where the goals recited in plans were not met. What is the average goal attainment for both small and small disadvantaged businesses?

Data provided indicated that 116 contracts during the past three years did not meet their small business goals or disadvantaged business goals or in some cases both. These contracts totaled $3.6 billion.

The average goal attainments of our contractors with subcontract plans are as follows:

	Small Business	Disadvantaged Business
FY 1981	117%	105%
FY 1982	120%	91%
FY 1983	137%	109%

(8) What were your subcontracting goals for the last three fiscal years? Were goals met? If not, explain.

The subcontracting goals and achievements for fiscal years 1981, 1982, and 1983 are as follows:

Fiscal Year	Small Business	Disadvantaged Business
	Percent	Percent
1981 Goal	33.4	3.4
Actual	44.0	3.6
1982 Goal	36.7	3.9
Actual	44.9	3.4
1983 Goal	35.5	3.9
Actual	45.5	4.0

All goals were met with the exception of the disadvantaged business goal of FY 1982. Analysis provided no systemic reasons for the failure to meet this goal but a concerted effort in fiscal year 1983 enabled the Department to reestablish the growth pattern in this program.

DEPARTMENT OF ENERGY
SMALL BUSINESS INNOVATION RESEARCH
PROJECT SUMMARIES FOR PHASE II AWARDS

Applied Microwave Plasma Concepts, Inc.
2210 Encinitas Blvd., Suite P
Encinitas, CA 92024

"High-Beta, Hot-Electron Surface-Layer Enhancement of Confinement in Stellarators"

The project will develop electron cyclotron heating system concepts suitable for creating and sustaining high-beta, hot-electron plasma layers in toroidal magnetic plasma confinement configurations offering the possibility of stable high-beta performance. Candidate configurations include stellarators, helical-axis stellarators, and steady-state tokamaks. The objective will be to achieve spatially-restricted, hot-electron layers with optimized ECH power efficiency. The technical approach utilizes numerical, three-dimensional model magnetic fields to determine realistic electron orbits and the heating and transport effects of ECH fields. The work will encompass issues such as wave launching and plasma-wave interactions for single-frequency, multi-frequency, and frequency-modulated microwave power, and it will culminate in the preconceptual design of arrays of quasi-optical resonators designed to achieve the optimum heating kinetics identified in these studies for the most promising candidate configuration.

Anticipated Results/Potential Commercial Applications:

Completion of a successful Phase II Program could stimulate a Phase III Program leading to the practical development of high-beta, steady-state plasma confinement devices with the potential for economic generation of central station electrical power from inexhaustible supplies of deuterium fuel. The application of this research would be to reduce the size of reactors and to allow for the possibility of using advanced fusion fuels that minimize tritium inventory and handling problems. These results would lead to significant improvement in the economic and social benefits of fusion power reactors.

The Arizona Carbon Foil Co., Inc.
4152 E. Sixth Street
Tucson, Arizona 85711

"Improvement of Carbon Foils and Applications"

In this project, we will make improved carbon and carbon-hydrogen foils, to develop a neutral-density filter for the near-infrared spectral region, to make a proton detector useful for high proton energies and beam currents, and to protect surfaces from both abrasion and corrosive action. For our carbon deposits used as optical attentuators in fiber-optics communications, we need improved methods of making and selecting satisfactory products so as to bring the price down. Carbon-hydrogen polymers made from an electric discharge in ethylene are particularly effective for targets and ion strippers in work with particle accelerators, but no commercial source is currently available; we will make such items. A neutral-density filter in the 0.8 - 1.6 micron range would be especially helpful in fiber-optics communications, and our work so far done indicates that we can make such a device which would be based on our carbon research. We will use a form of the ethylene deposits for the development of a proton detector, for which the Air Force has indicated a serious need. Finally, we will develoo a commercial service for the coating of surfaces with protective films of fluorocarbon substances.

Anticipated Results/Potential Commercial Applications:

Our carbon-based optical filters already enjoy a large sale, but we hope to cut the price which better selectivity would permit. There is a substantial market for long-lived, carbon-hydrogen polymer foils in nuclear laboratories. A major corporation has asked us if we could provide a neutral-density filter for the infrared. The proton detector would have applications for many particle-accelerator laboratories. The protective coatings look to have a significant sale to chemists who work with corrosive substances.

Bend Research, Inc.
64550 Research Road
Bend, Oregon 97701-8599

"Concentration of Synfuel Process Condensates by Reverse Osmosis"

Liquid and gaseous fuels produced from coal or shale oil - i.e., "synthetic" fuels or "synfuels" - will be major substitutes in the future for the diminishing supply of petroleum-based fuels. A significant problem in the production of synfuels is usage of large quantities of water and the generation of large volumes of aqueous wastes. These wastes, classified as process condensates, contain organic and inorganic compounds that currently can only be removed by a series of expensive unit operations. During Phase I of this program, we demonstrated the feasibility of treating synfuel condensates with a reverse-osmosis process based on a novel membrane module that is resistant to fouling and is capable of removing most of the contaminants. The results of the Phase I program indicate that reverse osmosis can signficantly lower the cost of treating these synfuel process waste waters. In the Phase II program we will perform a field test of this reverse-osmosis process at an operating synfuel plant and will support this test with a development program aimed at optimizing membranes for condensate treatment. Upon completion of Phase II, the field-test unit will be delivered to a DOE-sponsored test site for use in further condensate-treatment-scheme development tests.

Anticipated Results/Potential Commercial Applications:

The fouling-resistant reverse-osmosis system developed during this program will be capable of lowering the costs of synfuel condensate water treatment by as much as a factor of ten. Furthermore, this reverse-osmosis system, when commercialized, will be capable of treating various oil refinery and other waste waters containing organics more cheaply and efficiently than existing methods such as biotreatment.

Bennett-Ringrose-Wolsfeld-Jarvis-Gardner, Inc.
2829 University Avenue Southeast
Minneapolis, Minnesota 55414

"Sunlight Distribution in Remote Interior Locations Using a Multi Axis Suntracker as a Light Source"

This project will concentrate on making a significant contribution to proving the technical feasibility of multi-zone integrated sunlight/artificial light distribution systems using a multi-axis suntracker. The existing (Active Solar Optic) system, to be used as a sunlight delivery system for horizontal distribution as task lighting, was designed based on guidelines set out by us. It is operational at this time, delivering a fixed beam of sunlight 110 feet (10 stories) below grade, into the Civil/Mineral Engineering (C/ME) Building at the University of Minnesota. In Phase I, 19 alternative concepts were evaluated. The most promising component was tested to establish proof of principle capabilities. It showed exemplary promise as a cost-effective, fully integrated sunlight/artificial light horizontal distribution fixture. The Phase II research effort will advance the technology for bringing beamed sunlighting to the marketplace by field testing a prototype which will allow simultaneous or alternative delivery of solar and artificial light. By using the multi-axis suntracker at the C/ME Building to illuminate and monitor a portion of an existing office space 110 feet below grade, and employing the analytic groundwork developed in Phase I, we will demonstrate the technical and economic feasibility of this new technology. The design of the Phase II prototype will be made in conjunction with a set of architectural life-cycle-costing models for new and retrofit applications.

Anticipated Results/Potential Commerical Applications:

The anticipated results of this contract are: (1) design of a cost-competitive, solar-integrated lighting fixture and network applicable to a large portion of the architectural marketplace, (2) development of design guidelines and price and performance specifications for multi-axis suntrackers and artificial light sources, and (3) development of design analysis guidelines for architects and engineers for identifying cost/benefit trade-offs in the architectural, structural, mechanical, and electrical design of buildings utilizing this new technology. During Phase II, information on performance specifications for our system will be let to multi-axis suntracker manufacturers to facilitate implementation of the total concept package.

Ceramic Finishing Company
P.O. Box 498
State College, Pennsylvania 16804

"Fracture Mechanics Investigation of Grinding of Ceramics"

Recent advances in contact fracture mechanics have created an opportunity to apply contact fracture mechanics to investigate mechanisms of material removal and damage penetration during abrasive machining of ceramics. Because the mechanisms of materials removal influence the magnitudes and distributions of the residual stresses induced by elastic relaxation against the irreversibly deformed zone on unloading and they, in turn, influence the damage penetration, we plan to emphasize investigation of the mechanisms of material removal in this project. These mechanisms include crushing by mixed mode fracture ahead of, beneath, and behind the diamond point and chipping at lateral cracks propagating in response to the residual stresses. Material may also be displaced from the groove by plastic flow. By modifying available mathematical models for stress distributions and crack propagation at static indentations, mathematical models will be developed to predict the extent of crushing and lateral cracking in the elongated grooves formed during grinding. The objective is to determine the relative importance of crushing and chipping alongside the track as a result of lateral cracking, as mechanisms of material removal, for various material properties and grinding conditions. The role of crushing in reducing the residual stresses that are responsible for lateral cracking will be investigated. The analytical results will be compared with the results of suitable experiments. These comparisons will be extended to include comparisons of up and down grinding, and single point and multipoint grinding.

Anticipated Results/Potential Commercial Applications:

This research is expected to yield improved understanding of the mechanisms of material removal and damage penetration during abrasive machining of ceramics, and improved methods for designing and controlling these processes. In addition, the results are likely to be useful for future research in contact fracture mechanics which is a field of growing importance and where phenomena at elongated grooves represent a new area of interest, and to the understanding of other types of crushing such as that occurring during mineral processing.

Creare R&D Inc.
P.O. Box 71
Hanover, New Hampshire 03755

"Gas Bearing Turboexpander for Helium Refrigerators and Liquifiers"

Turboexpanders which operate in gas bearings are needed by the High Energy Physics Community and others for use in laboratory size helium liquefiers and refrigerators where extended operation without maintenance is desired. Unfortunately, cryogenic systems employing turboexpanders are subject to start-up and shut-down transients and to system upsets where system pressures may change substantially. Under such circumstances, bearing failures can occur. When they do fail, factory repair and replacement of the shaft and/or bearings is currently necessary frequently resulting in costly delays in experimental programs. This project will develop and test cryogenic turboexpanders operating in gas bearings. The program's principal objectives are to: (1) develop gas bearings which are immune to failure from system pressure excursions, (2) design the expander for easy on-site repair of shafting or bearings in the unlikely event of failures, and (3) improve the efficiency and reduce the cost of cryogenic turboexpanders. A turboexpander with self-acting journal bearings and a pressurized gas thrust bearing was designed in Phase I. The turboexpander is intended for use in a two-stage series expansion refrigeration or liquefaction cycle. Prototype journal and thrust bearings were constructed and successfully operated without failure under conditions simulating expected system pressure excursions. In Phase II of this program, a pair of prototype turboexpanders will be built and tested in a suitable cryogenic test facility. Performance and operating characteristics of the turboexpanders will be established under cryogenic conditions.

Anticipated Results/Potential Commercial Applications:

The goal of this three phase project is to produce a commercial gas bearing turboexpander for use in laboratory sized helium liquefiers and refrigerators. The principal features of the expander design are high reliability against pressure excursions, high efficiency, and on-site repair capability.

Creare R&D Inc.
P.O. Box 71
Hanover, New Hampshire 03755

"High Speed Cryogenic Helium Pump"

Small, commercial centrifugal pumps and compressors for long-life circulation of supercritical helium do not exist. However, machinery of this type is in strong demand by the high energy physics community for applications in experiments and in particle accelerators using superconducting magnets. The purpose of this research and development program is to produce and demonstrate the performance of a standardized centrifugal pump for a wide range of applications in cryogenic helium. This will meet the needs of the high energy physics community by providing reliable standard-design helium circulators at an order of magnitude lower cost than is associated with custom design and fabrication for each application. In Phase II, we will design, manufacture, and test a prototype pump for cryogenic helium applications. The centrifugal pump design will employ a generic bearing, motor, and casing construction so that a wide range of design points can be achieved by minor impeller and shaft modifications. A major part of the Phase II effort involves the development of a high speed brushless motor that is suitable for reliable operation in self-acting gas bearings. This motor drive will be suitable for pump and cold vacuum compression applications at power levels up to approximately 1.5 Kw and speeds to 110,000 rpm. A centrifugal pump operating in self-acting gas bearings and incorporating a brushless motor was designed during Phase I. The pump configuration was established to meet a range of liquid helium flow rates (20-500 g/s) and pressure rise requirements (0.1-5 atm). The design was also formulated so that vacuum compression applications could be accomodated down to inlet pressures of about 0.1 atm. In Phase II, a prototype motor will be developed, and a pump will be built and tested in a suitable cryogenic test facility. Performance and operating characteristics will be established under cryogenic conditions.

Anticipated Results/Potential Commercial Applications:

The result of Phase II will be the successful demonstration of a reliable, long-life centrifugal pump capable of meeting a range of applications at cryogenic helium temperatures. In Phase III, the pump will be commercialized so that it is widely available at low cost.

Crystal Systems, Inc.
35 Congress Street
Salem, Massachusetts 01970

"Growth of Bismuth Germanate ($Bi_4Ge_3O_{12}$, BGO) Using the Heat Exchanger Method (HEM)"

The feasibility of growth of BGO crystals by HEM has been demonstrated during Phase I. It has been shown that the quality of BGO crystals grown by HEM is equivalent to crystals grown by the Czochralski and Floating Zone methods. Square cross-section crystals have been grown by HEM, and the reusability of platinum for crucibles has been demonstrated. These features are important for improving yields of usable crystal from the ingots and reducing costs. The objective of the two-year Phase II project is to establish technology for economic growth of large, high-quality BGO crystals for nuclear and high energy physics applications. It is intended to grow 25 cm x 25 cm x 12 cm BGO ingots by HEM. The unique feature of a submerged solid-liquid interface and motionless process gives stability to the interface. Consequently, in HEM growth of compound crystals, any non-stoichiometric composition is rejected away from the interface and solidified as the last material to solidify on the surface of the ingot where it can be easily removed. The independent control of liquid and solid gradients during growth of crystals by HEM allows minimization of defects; 'in situ' annealing relieves solidification stresses; and ability to cool the crystal at a controlled rate after growth makes it possible to grow very large crystals. HEM is a simple motionless process that lends itself to automation which results in low-cost processing. During the entire program close cooperation will be maintained with nuclear physicists and high-energy physicists, both to keep them apprised of this emerging capability and to stay abreast of their requirements. Samples will be made available to them for detailed characterization for their applications.

Anticipated Results/Potential Commercial Applications:

It is anticipated that technology will be established for production of large, high-quality BGO crystals by HEM for commercial applications. BGO crystals have significant applications for Compton suppression shields, XCT, positron CT, and compact calorimetry. At present, a number of applications cannot use BGO because of lack of availability of high-quality, large sizes, and low cost. A number of other projects in the design stage, such as LEP, SLC, and CESRII, cannot be completed if these same goals are not met. This work is expected to address and meet all these requirements. BGO crystals also have important applications in density gauging, well logging, and medical instrumentation.

Dynamics Technology, Inc.
22939 Hawthorne Blvd.
Torrance, CA 90505

"A SQUID-Based Airborne Magnetic Gradiometer System"

Airborne magnetic gradiometry has proven to be a useful and cost-effective tool in geophysical surveys. Existing systems are long baseline systems utilizing either proton precession or alkali vapor magnetometers. Due to relative motion between the sensors and lack of sensitivity, these magnetic gradiometers do not realize the full benefits of a differential system. We and Quantum Design, Inc. are developing and testing a short-baseline (15 cm) SQUID magnetic gradiometer system of enhanced sensitivity for airborne geophysical surveys. A custom-dewar design and a magnetic feedback loop will be used to immunize the SQUID sensor from the effects of platform motion. A suite of noise reference sensors forms the basis of a real-time data adaptive noise reduction subsystem which is necessary to utilize the extra sensitivity of the SQUID vector gradiometer. The Phase I feasibility study indicates that a working system noise floor of -70 $dB//(nT/m)^2/Hz$ is achievable with the GRAMAG system. In Phase II, we will integrate the upgraded SQUID magnetic gradiometer with the reference sensors, the data acquisition system, and the adaptive noise reduction software. A series of flight tests with the system installed in a magnetically quieted Piper Navaho Chieftain will establish the system noise floor and the system performance over a known geophysical survey range.

Anticipated Results/Potential Commercial Applications:

The vector magnetic SQUID gradiometer system will add a new dimension to airborn magnetics. Not only will a higher sensitivity and lower noise level become available, but a more complete description of the anomalous magnetic field will be available for interpretation. Much of this information was previously only available from ground surveys. The higher sensitivity and lower noise level of the envisioned system will be particularly advantageous in focusing more costly survey techniques on geophysically promising areas, thus saving significant exploration resources.

ICR Research Associates, Inc.
2601 Garfield Street
Lincoln, Nebraska 68502

"Fourier Transform Mass Spectrometer for Analysis of Complex Fuel Mixtures"

In coming years, the problems posed by quantitative analysis of petroleum will stimulate significant innovations in analytical technology. One analytical technology in which improvements are both desirable and technically feasible is high resolution mass spectrometry (HRMS). The construction of a HRMS and associated data system suitable for analysis of natural petroleum fractions, synthetic tars and liquids, SRC products, and fundamental coal structure will be performed. The technical approach will be to increase at reasonable cost the routine operating mass range, resolution, and scan speed of HRMS each by an order of magnitude over commercially available instruments. In this project, improvements in instrumentation will be coupled with innovations in mass spectral data processing. These include a new design concept for a commercializable board-level array processor and improved methods for the compilation, reduction, and reporting of the massive data streams the instrumentation in this project will produce. The data reduction and reporting schemes will employ interactive color graphics and should enable the analyst to make rapid, visual assessments of complex analytical results. It is possible that these reporting methods could find broad application in the field of mass spectrometry.

Anticipated Results/Potential Commercial Applications:

The research will result in a mass spectrometer system capable of mass resolution, mass range, and scan rate each approximately one order of magnitude greater than that available with commercial instrumentation. The instrument will determine elemental compositions of some 3000 resolvable mixture components in 2.4 minutes. Efficient methods for reporting large data sets will be based on color graphics displays. With these capabilities, more detailed understanding of process chemistry will be possible. Specific reaction types such as hydrogen exchange, C-S bond cleavage, and redox should be detectable and quantifiable. This rapid characterization of petroleum and synfuel products and process streams should be possible. Commercial applications will involve sales of instrumentation and analytical services. If a facile coal hydrogenation or desulfurization pathway were detected by the instrument, creating a technical basis for new process streams, benefits could be substantial.

Inference Corporation
5300 W. Century Blvd.
Los Angeles, CA 90045

"Adding Heuristic Knowledge to Computer Algebra Systems"

Present computer algebra systems significantly reduce the time spent solving mathematical problems from that required in the previous pencil-and-paper or numerical approximation techniques. However, these systems are still unnecessarily tedious and time-consuming for many important problems. In Phase I of this project, we demonstrated the feasibility of applying new Artificial Intelligence technology to the problems of complex expression simplification and automatic mathematical problem-solving in cases where complete deterministic algorithms do not exist. This was accomplished by integrating two of our products: SMP, a state-of-the-art computer algebra system originally developed at the California Institute of Technology, and ART, a state-of-the-art A.I. knowledge representation and inferencing system developed and owned by us. In Phase II of this project, we will extend the results obtained in Phase I to apply to many areas of mathematics. We will develop a system with semantic understanding of mathematical expressions rather than the limited syntactic understanding available in today's computer algebra systems. With this semantic understanding, we expect our system to deal with problems such as qualitative analysis of function behavior, automatic expression simplification in nontrivial cases, and the solution of non-linear simultaneous inequalities. In general, we expect that this new system will enable computer algebra users to concentrate on their mathematical objectives while the system automatically discovers solutions to these objectives in many cases. The integration of diverse types of knowledge supported by the ART architecture is exactly what is needed to sensitively control the automatic search for solutions to complex mathematical problems.

Anticipated Results/Potential Commercial Applications:

The eventual result of Phase III will be a new computer algebra system which will enable its users to achieve a substantial increase in their mathematical problem-solving productivity. Since computer algebra is used across the entire spectrum of scientific and engineering research, the new system will have profound benefits to government, university, and industrial researchers in all scientific fields.

Intermountain Technologies, Inc.
P.O. Box 1604
Idaho Falls, Idaho 83403-1604

"Application of Fluid Bearings to Turbine Flow Meters"

Phase I research has demonstrated the feasibility of applying fluid bearings to turbine flow meter design. A demonstration model suspended in a 4" diameter test section performed with good repeatability in the flow velocity range of 0.01 to 2.6 ft/sec. This is 20 or 30 times more sensitive than the lower limit claimed for ball bearing turbine meters. The turbine meter was also driven by air jet to 3000 rpm, corresponding to a flow velocity of 27 ft/sec, indicating a service range of ~2700:1. Commercially available turbine meters have a range of 50:1 at best. Pressure drop channels within the turbine body were successfully sized according to extrapolated equations developed for hydrostatic bearings using oil. While this method produced a workable model, research into the relationships between design and operating parameters must be carried further to allow confident component sizing for specific service requirements. Additionally, the turbine must be demonstrated to perform for extended periods in flows containing contaminants and particulates. Continuous bearing fluid bleed outward into the flow being measured should prevent bearing fouling. In addition, since there is no metal-to-metal contact, bearing wear should not occur. The Phase II program will consist of (1) completing research on relationships between design and operating parameters, (2) refining the design of the turbine meter to permit size reduction and to select materials appropriate for specific applications, (3) incorporating rotation sensors and signal processing systems, (4) incorporating a self-contained bearing fluid supply system, and (5) conducting full-range performance and life tests on a complete fluid bearing turbine meter system.

Anticipated Results/Potential Commercial Applications:

Phase II work should result in a turbine meter design demonstrated to be technically feasible and commercially competitive. Bearing behavior tests will provide design calculation methods for sizing meters to specific service needs. These results should allow application of this device to measuring flow for natural convection of fluids, ocean currents or storage system leakage monitoring on the low-velocity end of the range. The performance range of 3 or 4 decades allows its application in variable fuel consumption measurement or accident simulation tests. Bearing fluid outflow protects the bearings against fouling, allowing use in slurries or other "dirty" fluids. Finally, since there is no metal-to-metal contact as long as sufficient fluid supply pressure is maintained, bearing life should be greatly extended, making this design superior for service wherever turbine flow meters are used.

Management and Technical Consultants, Inc.
P.O. Box 21
Columbia, Maryland 21045

"Investigation of an Advanced Concept for the Reforming of Heavy Liquid Hydrocarbon Fuels to Hydrogen"

Fuel cells have several advantages over conventional hydrocarbon fueled power generation systems. Their superior efficiency and environmental performance make this evolving technology attractive for many end-use applications. While, in principle, a fuel cell power plant can be fueled by essentially any hydrocarbon, in practice the complexity, cost, and efficiency of a fuel reformer varies widely from one fuel to another. Fuel reformers are presently commercially available only for natural gas, naphtha, and methanol fuels. However, for U.S. industry to realize the benefits of this emerging technology, fuel reformers must have the capability to handle a wider range of heavier hydrocarbon fuels. The objective of the Phase I program was to investigate an advanced concept for the reforming of heavy hydrocarbon liquid fuels. The results of the first phase evaluation substantiated the potential viability of the proposed reformer concept and defined the scope of an experimental investigation. The Phase II effort is devoted to a bench-scale development effort and a pilot-scale reformer design.

Anticipated Results/Potential Commercial Applications:

The results of the Phase II research will provide the proof of concept and the engineering data base from which to design a pilot-scale advanced heavy fuel reformer for fuel cell applications. This development will enhance the attractiveness of fuel cells as sources of power generation in the U.S. with attendant increases in fuel efficiency and reduced pollution. The advanced reformer concept is applicable to a wide range of fuel cell capacities from utility to small commercial units.

National Electrostatics Corporation
P.O. Box 310
Middleton, Wisconsin 53562

"Construction of an Ampere Intensity, 3 MeV DC Electron Beam System"

We propose to construct and test a 3 million volt, recirculating beam accelerator capable of producing direct current electron beams up to 5 amperes. The accelerator will combine the designs developed in the Phase I project with our standard accelerator components and be installed in our vertical Pelletron Electrostatic Accelerator.

Anticipated Results/Potential Commercial Applications:

The anticipated results of this project will be threefold: (1) Creation of a 3 MeV high current test facility for use in the study of recirculating beam technology or experiments with the high current beam. (2) The training of a number of graduate students in the accelerator technology area through the UW Physics Department and Fermilab. (3) The eventual commercial offering of a comparable DC electron beam system for use with antiproton accumulators.

NYCB Real-Time Computing, Inc.
47B Dunwood Road
Port Washington, New York 11050

"Development of FASTBUS Packaged Micro-VAX Microcomputer Modules"

A system for introducing Micro-VAX microcomputer modules into the FASTBUS environment will be developed. In Phase II, the hardware design will be completed and two prototype units will be assembled and debugged. Also, support software for the system will be constructed. The actual FASTBUS module contains two circuits boards, one featuring the processor section, and the other the FASTBUS interface proper. The processor board contains the Micro-VAX microprocessor integrated circuit, an associated floating point processor, read-only program memory, and two random access memories, the larger of which will contain (or be expandable to contain) 4 megabytes of error correcting memory. This board also contains a second high integration microprocessor, to support input/output operations, and peripherals for both microprocessors, including an Ethernet port. The second board contains a buffered high bandwidth FASTBUS interface capable of FASTBUS operation at speeds up to a design goal of 60 megabytes per second for blocks up to a design goal of 4 kilobytes. Software will consist of firmware programs for both microprocessors, as well as operating system software for both the Micro-VAX and a remote Host VAX (accessed via the FASTBUS). The goal is to provide the run-time environment of the Micro/VMS operating system with the FASTBUS module without the need for a private disk for each microcomputer. An optional goal is to provide support for the memory based software product VAX/ELAN.

Anticipated Results/Potential Commercial Applications:

Strong interest in this product has been expressed by the Fermilab Colliding Detector Facility, the D0 experiment at the Fermilab Tevatron

Collider, and the SLD detector group at SLAC. Evidence of interest on the part of the MIT LEP group has been conveyed. Proposed uses of single processors include stand-alone monitoring and a variety of one-of-a-kind applications in physics experimental data acquisition systems (e.g., Fermilab CDF "buffer manager" application). Arrays of microcomputer modules are proposed as solutions to the online event filtering (i.e., "level 3 trigger") and offline data reduction problems. Uses of arrays in other fields include frame by frame image reconstruction/analysis for astronomy and medical imaging.

OPHIR Corporation
7333 West Jefferson Avenue, Suite 210
Lakewood, Colorado 80235

"Design, Fabrication, and Reactor Testing of an Infrared Absorption HTGR Coolant Loop Moisture Sensor"

We have recently developed an infrared absorption optical hygrometer for use in the earth's atmosphere. In our Phase I effort we have now shown, both theoretically and experimentally, that it is possible to adapt our new technology to quantitatively measure trace moisture in the high pressure primary coolant loops of gas-cooled nuclear reactors. In Phase II, we and the Public Service Company of Colorado will cooperatively build, install, and test a prototype optical hygrometer on the operating Fort St. Vrain High Temperature Gas-Cooled Nuclear Reactor. Once test and operating data are collected on the prototype, we will redesign the instrument into a refined operational optical hygrometer for on-line reactor use. This operational hygrometer will then be constructed and installed on the reactor. In Phase III we will construct additional instruments for complete conversion of the Fort St. Vrain reactor to our moisture sensing technology. We will also contact Gulf General Atomic about the possibility of incorporating our instrumentation into their reactor designs.

Anticipated Results/Potential Commercial Applications:

This research will result in a new reactor moisture sensing technology for use in primary coolant loops of various gas cooled reactors. Commercial benefits include improved gas cooled reactor safety, reduced power generation down-time, improved sensor cost effectiveness, and reduced tritium waste effluent.

OPTRA, Inc.
1727 Revere Beach Parkway
Everett, Massachusetts 02149

"Fiber Optic Current Probe"

The objective of Phase II is to develop a technically and commercially viable Optical Current Measurement System based on the use of a stabilized 2-frequency HeNe laser in conjunction with a Fiber Optic Current Probe. During Phase I, all of the initial objectives were met, and the technical feasibility of both the 2-frequency laser interrogation of the transducer, and the sensitivity of the fiber optic transducer itself, were firmly established. The targeted Phase II objectives are: (1) verification of the critical

Phase I results, leading to the design of an engineering prototype of the Optical Current Measurement System; (2) fabrication and laboratory testing of the prototype system; and (3) field tests of the prototype system in one or more electrical power generation/transmission facilities. An auxiliary goal during Phase II is to establish contact with representatives of the electrical power transmission and equipment manufacturing industries with the objectives of assessing the market for an Optical Current Measurement System and developing collaborative relationships. At the completion of Phase II, we expect to have developed a prototype measurement system which surpasses the capabilities of existing instruments, both in terms of performance and cost-effectiveness, and to have either acquired or obtained commitments for the capital needed to exploit the commercial opportunity created during Phases I and II.

Anticipated Results/Potential Commercial Applications:

At the completion of the Phase II program, OPTRA plans to be in a position to commercially market a new measurement technology to those industries concerned with electrical power generation and transmission. This measurement system, based on 2-frequency laser measurements of current-induced changes in the optical properties of passive dielectric transducers, will provide substantially improved operating characteristics at a lower price than competing technologies. Aside from improved accuracy, economy, and safety there is the benefit that this advance in high-voltage technology will be embodied in a U.S. product. The R&D program has targeted the needs of the electric utility industry - more specifically, that portion of the industry concerned with the high-voltage transmission of electrical power and with the maintenance of related facilities.

Radiation Monitoring Devices, Inc.
44 Hunt Street
Watertown, Massachusetts 02172

"Avalanche Photodiodes for Positron Emission Tomography"

Modern nuclear medicine instruments provide fast and accurate data for clinical diagnosis and medical research. Many of these instruments, including Positron Emission Tomography (PET) scanners, require an array of radiation sensors which consist of a photomultiplier tube coupled to a scintillator crystal. The cost and complexity of this valuable instrument could be significantly reduced if the phototubes could be replaced by a solid state sensor. Standard solid state devices do not have enough sensitivity to be used in such applications. Phase I of this research demonstrated the feasibility of using a new sensor, the large area avalanche photodiode, for PET applications. This new sensor has an internal signal gain which provides higher sensitivity than standard sensors. Phase II of this research will continue to investigate and improve the avalanche photodiodes by increasing their sensitivity. Devices of suitable size and shape will be fabricated and tested for state-of-the-art PET instruments. Both of these areas represent significant commercial markets.

Anticipated Results/Potential Commercial Applications:

By developing a new solid state photosensor of this type, a significant reduction in PET scanner size and complexity will be possible. This will make the instruments more practical, reliable, and less costly for both research and medical diagnostics. This would accelerate the propagation of these valuable instruments to a larger number of facilities. These detectors are also well suited to high energy physics research for applications where phototubes cannot be used, such as in high magnetic fields or when the bulk of the phototubes makes large arrays impractical to assemble.

Scientific Systems International
3491 B Trinity Drive
Los Alamos, New Mexico 87544

"FASTBUS Segment Extension as a Crate Coupling Concept"

The FASTBUS (Modular, High Speed Data Acquisition) system specification for high energy physics and other data system applications has defined the Segment Interconnect that allows a user to expand a FASTBUS system beyond the 26-slot basic Segment. A different technique for coupling FASTBUS Segments called the Segment Extension concept will allow a FASTBUS system to be expanded beyond a single crate in a cost-effective way for the small-system user, the infrequent or beginning user, and the user of a large number of front-end detector channels. In this project an expansion technique will provide for the extension of a basic Segment into a larger, but single, logical Segment consisting of up to 7 physical Segments; system expansion is addressed, while the complexity of the coupling scheme is reduced by more than a factor of 5 over that of the defined Segment Interconnect. The Phase I feasibility study resulted in a positive conclusion and predicted that the maximum delay to be expected when addressing a Slave module at the extreme end of a 7-Segment expansion would be on the order of 450 ns (contrasted to the 100 ns cycle-time of a single FASTBUS Segment). The Phase II research and development effort will bring the Segment Extension concept to the prototype hardware stage for testing and verification of the system results from the Phase I research.

Anticipated Results/Potential Commercial Applications:

The Segment Extension concept for small FASTBUS data acquisition systems or systems with a large number of detector channels to cope with will (1) provide a less expensive alternative to the Segment Interconnect described in the FASTBUS Specification, and (2) allow a first-time or infrequent user to configure a data system that is larger than a single Segment, but as easy as a single Segment to understand and control. The acceptance of FASTBUS as a data system for scientific purposes will be stimulated by the easy-to-use and less expensive system expansion concept; ultimate introduction of FASTBUS into the commercial control and data acquisition sectors will become easier to accomplish.

Spire Corporation
Patriots Park
Bedford, Massachusetts 01730

"Research on Advanced Cell Designs for High Efficiency Flat-Plate Applications"

The commercial viability of a photovoltaic system depends critically on system cost and efficiency. Although cost is in general the most important factor, balance-of-systems costs require a minimum operating module efficiency of about 15%, in order to compete in the U.S. energy market. This project comprises improvements to solar cell design that address this requirement. During Phase I, the feasibility of using the ion implantation process for fabrication of cells with unusually high efficiency on small-area (4 cm^2) cells made from single crystal silicon was shown, and a large-area (50 cm^2) cell was designed. Phase II comprises research on the fabrication of prototype large-area cells. In addition, Phase II research addresses reduction of process cost, and includes application of the cell design and fabrication process to fabrication of solar cells made from a number of present-day Si sheet materials. Fabrication of prototype highly efficient solar cells from each material is an interim goal of the project; achievement of reproducibility and uniformity is the final goal.

Anticipated Results/Potential Commercial Applications:

This program addresses the national need for low-cost solar electricity. The resulting processes will lead to a superior flat-late solar cell and will be critically important to the establishment of viable solar electric technology in this decade. The resulting process and equipment will be made available to the photovoltaics industry as part of Phase III.

Supercon, Inc.
9 Erie Drive
Natick, Massachusetts 01760

"An Investigation to Determine the Commercial Feasibility of 'In Situ' Cu-Nb Composites for High Strength, High Conductivity Applications"

Information obtained during Phase I is used to evaluate the commercial feasibility of fabricating 'in situ' Cu-Nb multi-element composites for high strength, high conductivity applications. Results clearly demonstrate that multi-element 'in situ' composites can be extruded and subsequently drawn; these are critical steps in the fabrication of conductors of practical importance. Ultimate tensile strengths as high as 321 ksi with a corresponding electrical conductivity of 66% IACS were achieved in multi-element samples. We will continue this investigation in Phase II.

Anticipated Results/Potential Commercial Applications:

In Phase II we will optimize the high strength, high conductivity properties of multi-element 'in situ' composites and will increase the quantity of material fabricated. Additional material properties will be characterized such as fatigue, wear resistance, spark resistance, corrosion, high and low temperature strength, etc. Other forms of 'in situ' composite, such as plate and strip, will be fabricated and tested. Prototype material will be made available for customer evaluation. The potential commercial applications of 'in situ' Cu-Nb composites encompass all areas in which high strength, high conductivity materials are used. This includes applications such as high field d.c. magnets, rotating electrical machinery, electron tubes, electrical contacts, connectors, springs, diaphragms, bellows, brake pad linings, interior walls of fusion reactors, etc. Specific requests have already been received from potential customers with magnet and electrical contact applications.

TERA Advanced Services Corporation
2150 Shattuck Avenue
Berkeley, California 94704

"Process Evaluation and Experimental Test of Continuous $O_2(^1\Delta)$ Production for the Oxygen-Iodine Photoneutralization Laser"

Laser photoneutralization is a desirable technique to convert high energy negative ions to neutral beams for potential use in magnetic fusion reactors. A critical determinant of the energy efficiency of the most promising photoneutralization system is the performance of chemical recycling processes needed to sustain the continuous production of $O_2(^1\Delta)$ which provides the excitation energy for the oxygen-iodine chemical laser. In this project conditions for continuously reacting H_2O_2, NaOH, and Cl_2 to produce from about 5 to 500kW of $O_2(^1\Delta)$ and for regenerating the reactants will be evaluated. (This rate corresponds to an estimated fusion electric power plant output of approximately 20 MW to 2 GW.) Estimates of net energetic efficiencies will be verified at laboratory scale, and two potentially continuous processes for generating $O_2(^1\Delta)$ at higher thermodynamic efficiency than current batch processes will be tested at a 3 millimole/sec production rate. Both a modification of a currently used batch singlet oxygen generator and a novel, more efficient singlet oxygen generator conceived in Phase I should be capable of continuous operation. Approximate capital and operating costs for the chemical recycling plant have been estimated in Phase I to be relatively small compared to the costs of an electric power plant. More detailed designs and laboratory-scale tests for the new methods of excited singlet oxygen generation are warranted based on the processes developed in the Phase I research.

Anticipated Results/Potential Commercial Applications:

Of all the methods for forming high-energy neutral beams, photoneutralization of negative ions using an oxygen-iodine laser appears most attractive. Current processes for $O_2(^1\Delta)$ generation are not continuous, are thermodynamically inefficient, and would produce large quantities of waste products. The two new processes to be tested at laboratory scale appear capable of providing continuous $O_2(^1\Delta)$ efficiently. The new processes are critical to the photoneutralization concept for magnetic fusion and could have commercial applications for both chemical oxygen-iodine lasers and for chemical processes for $O_2(^1\Delta)$ production.

Universal Energy Systems, Inc.
4401 Dayton-Xenia Road
Dayton, Ohio 45432

"Fabrication of Amorphous Metallic Films and Coatings for Industrial Application Using High Energy Ion Beam Mixing"

The objectives of this research project are to develop stable amorphous metallic alloy coatings by energetic ion beam processing. It is anticipated that these coatings will exhibit superior properties with respect to corrosion pitting and surface erosion in fluid dynamic and electro-hydrodynamic environments. Fabrication of these surface films and coatings will be done using high energy (MeV) heavy ion bombardment of pre-deposited layers or surface alloy combinations. Alloy components will be chosen to take advantage of the so-called structural difference rule in producing amorphous layers by ion beam mixing. The stability of these glassy metal layers will be investigated as well as their passivation and control characteristics relative to corrosive pitting and oxidative surface reactivity. Applications for this technology are anticipated in engineering functions that expose critical shape and dimension surfaces to electro-hydrodynamic and corrosive fluid dynamic environments. Examples of this would be in such areas as high pulse rate electronic plasma switches for lasers and fine aperture ink jet printing heads used in high speed graphics technology. Phase I work on this subject has demonstrated the ability to use high energy ion beams to fabricate stable amorphous films. Development of these fundamental principles into technically useful corrosion and erosion resistant coatings will be the primary activity of the Phase II program.

Anticipated Results/Potential Commercial Applications:

It is anticipated that this work will result in controlled fabrication of high quality amorphous films that exhibit superior properties with respect to corrosion pitting and surface erosion in fluid dynamic and electro-hydrodynamic environments. Application of these results would be important to such technologies as high speed ink jet printing, plasma switching electrodes, and high efficiency infrared mirrors.

Viking Energy Corporation
121 N. Highland Avenue
Pittsburgh, Pennsylvania 15206

"Demonstration of Potential Robotic Applications in the Management of Radioactive Wastes at the West Valley Demonstration Project"

The robot to be developed will be deployed to decontaminate cells such as the Chemical Process Cell (CPC), Process Mechanical Cell (PMC), and the General Purpose Cell (GPC). It will be wheel-driven and will have at least the following capabilities: (1) Vision; (2) Vacuuming capability. Top priority is cleaning at the ground level and then moving upward as high as capable with the machine; (3) Directional lifting capability of at least 35 lbs. but preferably between 50 and 75 lbs.; (4) It should pick up objects and load into a drum (30 gal. capacity). The drum should be moving with robot or placed upon the robot; (5) Flexibility in the arm for attachment of a tool kit as and when required; (6) The tether and tires of the wheel should be capable of decontamination by spray cleaning or wiping, etc.; (7) The machine and the collecting drum should be able to clear at least 3 to 4 inch obstacles. The robot will be operable from a console located at least 150 feet away, and we will take advantage of the viewing windows that already exist in the facility. Additional capabilities that are required are: (1) Sand blasting and hose blasting the walls; (2) Pipe cutting.

Anticipated Results/Potential Commercial Applications:

The demonstration of the Robot System will be the forerunner of a host of applications in the effective management of Nuclear Waste, in Nuclear Power Plant Maintenance activities, and other industrial operations that expose workers to physical or health-hazardous environments. At this time it is very difficult to estimate economic benefits of the Robot System to this project, but it is expected to be much more than is already resulting by their usage in present industrial activites.

Mr. MITCHELL. Mr. Olmo?

TESTIMONY OF RALPH J. OLMO, ACTING DEPUTY UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION, ACCOMPANIED BY JERRY SUTTON, SMALL BUSINESS ADMINISTRATION OFFICE, AND WILLIAM SULLIVAN, DIVISION OF CONTRACTS AND GRANTS OPERATING OFFICE, DOE

Mr. OLMO. I am Ralph Olmo, of the Department of Education, and I have accompanying me on my immediate right, Jerry Sutton, who is the head of our Small Business Utilization Office, and William Sullivan, who is the head of our Contracts and Grants Operating Office.

I will summarize my statement, which I would like to submit for the record.

Mr. MITCHELL. It will be entered in its entirety in the record.

Mr. OLMO. We are proud of our overall effort in the small and minority-owned business activity of the Department. We have been able to provide a high level of contract support to both small and minority-owned firms each year, and this is despite the fact that statutory requirements and the nature of our agency requires us to award a significant amount of our contracts to educational institutions, States and local education agencies, as well as nonprofit organizations, which sometimes have local restrictions to their ability to subcontract out.

Although approximately 40 percent of our contract activity is awarded to those types of entities, we are still able to award approximately 25 percent of our contract dollars to small businesses and minority-owned businesses.

It is the policy of the Department to involve small and minority-owned firms in the full range of contract opportunities in the Department, and to ensure that, we consider that as a part of our annual procurement planning process.

With the award this year of the Cuban loan collection contract, we became perhaps the first Federal agency to use a small business for the collection of delinquent loans. This will not show up in any of our reports because when you award a contract for a collection activity, it has no dollar amount, since the contractor is on a commission basis.

Although overall procurement levels in the Department have declined, contract support for minority-owned firms has increased from 1981 to 1983 from 13 percent to approximately 19 percent. While our effort to create opportunities for small and disadvantaged businesses as prime contractors has been our main thrust, we strongly support the subcontracting requirements of section 211 of the law, and we intend to increase our focus on this aspect of the program.

We have discovered a few cases in which the Department did not obtain subcontracting plans prior to making an award. In those instances, we have asked the contracting officer to negotiate an adequate subcontracting plan.

We have, in addition, succeeded in obtaining a required subcontracting plan from each of our prime contractors that have received awards during this fiscal year.

We understand that we share the problem of other procuring agencies in obtaining subcontracting reports from each of our prime contractors, and we need to be more diligent about insisting on those reports, and we intend to improve our own monitoring of this aspect of our contract administration.

For the last 3 years, we have targeted over 50 percent of our subcontracting dollars to small and minority businesses. I would just like to leave that as our summary, and say again that we are proud of our progress in our programs for small and disadvantaged businesses during the period that we have been a Department and we are committed to continuing to improve that program.

I would be happy to answer your questions, Mr. Chairman.

[Mr. Olmo's prepared statement with attachment follows:]

PREPARED STATEMENT OF RALPH J. OLMO, ACTING DEPUTY UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION

Mr. Chairman, members of the subcommittee, thank you for the opportunity to appear before you today to discuss the Department of Education's small and minority business subcontracting.

In your letter of invitation to us, you requested that we respond to several questions relating to Section 211 of Public Law 95-507. Before responding to those questions, I would like to share with you our experiences with our small and disadvantaged business utilization program over the past few years. Since the creation of the Department of Education in May 1980, we have organized and staffed the Office of Small and Disadvantaged Business Utilization and have involved each of our major program elements with procurement activities in the support and further development of our small and disadvantaged business program.

Because of statutory requirements and the nature of our agency, we must award a significant number of our contracts to educational institutions, state and local education agencies, and nonprofit organizations. Nevertheless, we have been able to provide a high level of contract support to both small and minority-owned firms each year. For example, in fiscal year 1983, although more than 40% of our contracts were awarded to educational and governmental organizations, we still awarded 25% of our contract dollars to small businesses and minority-owned businesses.

We have taken specific steps to integrate the goaling for our 8(a) program with our annual planning process. In the Department of Education, we use the 8(a) program to ensure that small, minority-owned firms are involved in the full range of contract opportunties in the Department.

Our fiscal year 1983 accomplishments reflect our firm commitment to the provisions of Public Law 95-507. Although our procurement levels have remained constant, and in some programs declined, contract support for minority-owned firms has increased from 13% of the funds available for contracts in fiscal year 1981 to 19% in fiscal year 1983. Our primary effort has been to provide, to the maximum extent, support to small and minority business enterprises as prime contractors. This ensures meaningful participation by minority-owned firms and enhances their development and future growth.

We feel that the success of several small minority-owned firms that have participated in our 8(a) program over the past three years is noteworthy. Six of the minority-owned firms which the Small Business Administration initially determined to be eligible for graduation from the 8(a) program received and continue to receive significant contract support from the Department of Education.

While our effort to create a climate of opportunity for small and disadvantaged businesses as prime contractors has been our main thrust, we also support the subcontracting requirements of Section 211 of the law and intend to increase our focus on this aspect of our program. We have discovered a few cases in which the Department did not obtain subcontracting plans prior to making an award. In those instances, we have asked the contracting officer to negotiate an adequate subcontracting plan. We have, in addition, succeeded in obtaining a required subcontracting plan from each of our prime contractors receiving awards in fiscal year 1984.

In many instances, our prime contractors are universities and State and local education agencies that are constrained by their own procurement policies and/or central purchasing arrangements from subcontracting directly with certain types of firms. In these instances efforts to ensure that specific opportunities are directed to small and disadvantaged firms are not always easily achieved. When we have encountered such arrangements, we have still tried to negotiate subcontracting plans with adequate opportunities for small and disadvantaged firms.

We understand that we share a general problem with other procuring agencies in obtaining subcontracting reports from each of our prime contractors. Frankly, we need to be more diligent about insisting on reports. We intend to improve our monitoring of this important aspect of contract administration. Our prime contractors often express concerns about the frequency of subcontracting reports and the resources required to prepare the reports. Some firms have therefore elected to prepare and submit consolidated reports covering all Federal contracts. These reports are not always helpful in evaluating the progress achieved under specific contracts awarded by our Department.

Despite these problems we are taking steps to ensure that we meet our responsibilities under Section 211. Current efforts by our contract staff and our Office of Small and Disadvantaged Business Utilization to assist prime contractors experiencing difficulties with the development of adequate subcontracting plans, by identifying capable small and disadvantaged firms with which they could subcontract, are producing some immediate results. For the last three fiscal years, we have targeted over 50% of our subcontracting dollars to small and minority businesses.

We frequently urge our prime contractors to consider all of the goods and services required to meet their contractual obligations. In so doing, contracts requiring travel, office equipment, and supplies can be developed to provide subcontracting opportunities for a number of small disadvantaged firms which are highly experienced in meeting those requirements. Prime contractors often do not take these goods and services into account before developing and submitting plans indicating that no subcontract opportunities are available to small disadvantaged firms. When such subcontracting plans are presented to us, we provide assistance in identifying and referring small disadvantaged firms capable of providing those particular goods or services.

One of our primary goals has been to establish a climate of cooperation and assistance between our Department and our prime contractors. Such a climate, we feel, will enhance subcontracting opportunities for small and disadvantaged businesses that will extend beyond a specific contract under consideration. We have helped contractors to locate small and minority-owned firms, have advocated aggressive small business subcontracting practices, and have negotiated challenging subcontracting goals. To ensure that the gains that we have made are sustained and expanded, we are preparing to undertake a more vigorous monitoring and review effort. Progress reports will be obtained and reviewed not only to ensure compliance but to identify plans which reflect creativity and significant subcontracting results. Additional efforts will be made to have the Small Business Administration include a representative number of our prime contractors in its subcontracting evaluations.

The Department of Education has an outreach program which provides an opportunity for representatives of a small or disadvantaged firm to interact directly with program staff when the Department's annual program procurement plans include projects which are of interest to the particular firm. To provide a fair opportunity for small and disadvantaged businesses to compete and to seek subcontracting opportunities, we will publish an annual procurement plan of our major contract actions in the Commerce Business Daily. Additionally, our Office of Small and Disadvantaged Business Utilization participates in a series of conferences and special seminars for the specific purpose of providing information to small and disadvantaged firms on how to conduct business with the Department. We plan to issue a "Plain English" brochure on how to do business with the Department of Education. This will provide small and disadvantaged firms with a clear and concise overview of the programs available within the Department and the appropriate procedures to follow to participate in these programs. As we look ahead to FY 1985 we are considering the possibility of organizing an education trade fair which will probably be held in conjunction with the annual Small Business Week.

To improve our subcontracting program further, we are establishing a special study group to develop specific subcontracting plan evaluation guidelines for use by our contracting staff and prime contractors. This group will also explore and make specific recommendations on the use of incentives to stimulate more creative subcontracting plans and to develop the format and contents for both an internal and external awards program.

We are proud of the progress we have achieved with our prime and subcontracting programs for small and disadvantaged businesses during the brief period that we have been a Department. In fiscal year 1983, we led most Federal agencies in awards to minority business enterprises. We are firmly committed to the further improvement of our program including the provisions of Section 211.

I am glad to have had this opportunity to discuss our small and disadvantaged business program with you.

Our specific responses to the questions in your letter follows. I will be happy to read them if you wish.

Attachment to Statement of Mr. Ralph Olmo

1) Number and dollar value of contracts awarded during the last three years which contained subcontracting plans.

	FY 1981	FY 1982	FY 1983
Number of contracts awarded with subcontracting plans:	13	21	23
Dollar value of contracts in millions:	$28.4	$38.8	$36.4

2) Number and dollar value of contracts awarded during the last three years which did not contain subcontracting plans, but which were required by law to contain such plans. What corrective action was taken regarding these awards? How many contracts have not been modified to include plans?

	FY 1981	FY 1982	FY 1983
Number of contracts awarded without subcontracting plan:	3	2	6
Dollar value of contracts awarded which should have contained subcontracting plans, in millions:	$4.6	$1.2	$3.7

We have instructed the contracting officers to negotiate adequate subcontracting plans and to incorporate them into the contracts. We are in the process of completing the contract modifications.

3) How many plans did SBA review during the last three years? What was the number found deficient and dollar value of such contracts?

With the exception of the Annual Report made by SBA to the Congress, SBA has not informed us of the number of pre-award or post-award reviews conducted. We have been advised of only one post-award review in which the plans were found to be deficient.

4) Total dollar value of all subcontracts awarded during the last three years under prime contracts containing plans and the dollar value and percentage of subcontracts awarded to small and small disadvantaged businesses.

Because our larger contractors provide government-wide reports and because some contractors have not submitted the requested reports, we are unable to answer this question precisely. A sample of the available reports indicates that over 50% of these subcontracts are awarded to small businesses and over 30% to minority-owned firms.

Attachment (continued)

5) Total number and dollar value of all prime contracts awarded where the prime was found to be in non-compliance and any remedial actions taken including department proceedings.

With the exception of the subcontracting reports which were not submitted on schedule and the post-award review by SBA mentioned earlier, our contractors have complied in good faith with their subcontracting plans. We intend to improve our monitoring of subcontracting reports to insure the continued compliance of our prime contractors.

6) Describe any outreach program that Department of Education may have to assist small and small disadvantaged businesses interested in subcontracting with Department of Education's large prime contractors.

The text of our testimony addresses this question in detail. To summarize briefly: The Office of Small and Disadvantaged Business Utilization (OSDBU) as well as contact staff are regularly available to assist small and small disadvantaged firms interested in participating in our procurement activities. Representatives from small and small disadvantaged firms are able to review our annual procurement plans and to identify potential contract opportunities. In cooperation with the SBA and MBDA, the OSDBU staff participate in a series of conferences and seminars which are specifically designed to provide information about our program to small and small disadvantaged firms.

7) Give the number and dollar value of prime contracts awarded where the goals recited in plans were not met. What is the average goal attainment for both small and small disadvantaged business?

An informal sample of contracts with quarterly subcontracting reports indicates that most contractors are making satisfactory progress and that many have already exceeded their goals. Based on this sample, we project that the average goal attainment will exceed 100%.

8) What were your subcontracting goals for the last three fiscal years? Were goals met? If not, explain.

Based on the progress reports received, our subcontracting goals for fiscal 1982 were met. Outstanding reports for fiscal 1983 have been requested and will be evaluated upon receipt.

	FY 1981	FY 1982	FY 1983
Subcontracting Goals	Not Available	$2,450,000	$3,000,000
Disadvantaged	Not Available	$1,050,000	$1,300,000

Mr. MITCHELL. Thank you.

I really am a very, very nice man, and I don't use these situations for any adversarial role, I really don't. I have problems with words.

How can you be proud of what you are doing when, on the very first page of the attachment to your statement, you say you are unable to tell the subcommittee the dollar value and percentage of subcontracts awarded to small and small disadvantaged businesses, because contractors have not submitted the requested reports?

How can you be proud of information you haven't got?

Mr. OLMO. I said we were proud of our overall participation of small and minority businesses. We have some improvements to make in the subcontracting area, and I know the particular interest of this committee is going to cause us to redouble our efforts.

We also want to comply with the law in every respect that is possible, and we intend to do that. We have had a very successful program dealing with small, minority-owned businesses. Twenty-five percent of our prime contracts are awarded to small and disadvantaged businesses.

No one was beating us up to award the Cuban loan program, a debt collection activity, to a small business. We did that.

Mr. MITCHELL. You ought to be proud of that.

Mr. OLMO. That was my idea.

Mr. MITCHELL. Sure, and I am proud of you for picking it up. I am proud that you thought it up, but I am not proud of the fact, that you have disallowed. You can't give us accurate information because the reports don't come in.

How pervasive is that situation?

Mr. OLMO. It is not all that pervasive, in relative terms. When we start talking about millions of dollars, you will say a million here and a million there, but we have had six contractors that required subcontracting plans in fiscal year 1983 that didn't submit those plans.

We have none in 1984. In 1982, we had two, and in 1981, we had three. The dollar level for those six contracts totaled $3.7 million in 1983.

In 1982, those two contracts totaled $1.2 million, and in 1981, those three totaled $4.6 million. We are working with them to require them to provide us plans.

With respect to the reports, we have some difficulty with respect to the law being specific enough. The contractors are apparently legally permitted at this point, unless we specifically require otherwise, to provide the Government with overall reports rather than just on a contract-by-contract basis.

That is my understanding and I would like perhaps Bill to elaborate on that, or Jerry.

Mr. SUTTON. Mr. Chairman, we do find, when we receive reports from our prime contractors, based on the overall company plan, we are unable to track the direct progress. The instructions to the prime contractors on form 295 reports are somewhat fuzzy in our estimation.

In 1983, we received about seven reports that we felt did not provide us with information that indicated the amount of progress our prime contractors had actually made against the plans they had submitted.

We are now instructing them to be contract specific in submitting their reports to the Department.

Mr. MITCHELL. OK.

I am glad you have undertaken that initiative, because let me go back to your statement that we read, and you just indicated, we had discovered a few cases in which the Department did not obtain subcontracting plans prior to making the awards, that is in your statement.

That was a total of 11 such contracts?

Mr. OLMO. Yes, sir, over a 3-year period.

Mr. MITCHELL. Total value of $9.5 million, and if you just say, well, well, maybe 10 percent of that could have gone to small disadvantaged businesses, don't you see how we are being frozen out?

Mr. OLMO. Yes, sir, I do, and we are going to go back and try to reconstruct and modify awards so that those firms will provide us with subcontracting plans, but I would just appreciate it if we would look at it in the overall context, if we can make sure we get awards out to prime contractors in larger dollar amounts. I am not saying we don't have a problem, and we intend to correct it. I just don't want our office to be unfairly chastised, if we have failed in some areas without giving us recognition for the good things that we have done.

Mr. MITCHELL. How many more times do I have to praise you? I have praised you three times now, and that is enough. Now, it is time to look at what is going wrong and straighten it out. You are indicating that you are taking some initiatives to do that. To whom do you report?

Mr. SUTTON. I report to the Deputy Under Secretary for Management.

Mr. MITCHELL. You report to the Deputy.

Mr. OLMO. And that is me.

Mr. MITCHELL. What is your involvement in broad policy issues?

Mr. SUTTON. We are actively involved in the development of policy within the Department. We play a very active and pivotal role in the development of procurement plans across the Department. Our process is a little different from many of the Departments you have listened to this past week.

At the beginning of each year, each of our program elements are required to submit to management their procurement plans for that year. Within those plans, the Secretary directs each Assistant Secretary to identify the number of contracts, and dollar amounts that will be set aside for the 8(a) program.

We monitor that process on a monthly basis. Last year, each element was required to set aside 25 percent of the funds available for procurements. We sit in on the reviews each month to make certain that if those proposed procurements are canceled, that is those that were identified to be awarded under the 8(a) program, they are replaced with other procurements still scheduled to be awarded.

Mr. MITCHELL. That is very good. What size staff do you have in your office?

Mr. SUTTON. Myself, one program analyst, and a secretary.

Mr. MITCHELL. Wouldn't you want some more? It is an awful lot of responsibility and your secretary can't get into these policy things. It ends up with two people doing the job, right?

Mr. SUTTON. That is correct. We could certainly use more staff as we begin to look at how to improve our monitoring and review of subcontracting activities.

Mr. MITCHELL. Who do you report to?

Mr. SHEPARD. To the Office of the Secretary, sir.

Mr. MITCHELL. You get into policy decisions?

Mr. SHEPARD. Yes; I do.

Mr. MITCHELL. How big is your staff?

Mr. SHEPARD. Six professionals and two clerical.

Mr. MITCHELL. Much better than you, Mr. Sutton.

Mr. OLMO. Not if you compare the relative dollar values involved.

Mr. MITCHELL. Just stop. Six professionals and what?

Mr. SHEPARD. Two clericals, one stay in school is authorized, too.

Mr. MITCHELL. Did you hire the six professionals?

Mr. SHEPARD. I hired three of the six.

Mr. MITCHELL. Do you have the authority to do the hiring for your office?

Mr. SHEPARD. I think I do. I have the final say, so once the recruitment action is initiated, and what not, I have the final say-so.

Mr. MITCHELL. Mr. Olmo, I am looking at page 3, and you sort of change the language a bit from what was in your testimony, but I was so struck by this particular statement, it just seemed incredible.

You said in many instances our prime contractors are university and State and local education agencies that are constrained by their own procurement policy or central purchasing arrangements from subcontracting directed at certain firms.

When you gave your oral statement, you said you are sometimes constrained. That was a little different. For the life of me, I couldn't see how in the world these institutions could be prohibited or could have policies which would preclude them from dealing with small and/or small disadvantaged businesses.

Mr. OLMO. I would like to ask Mr. Sullivan, who would be more familiar with those constraints than I would be, to speak to that, if I may?

Mr. MITCHELL. Sure.

Mr. SULLIVAN. As the numbers indicate, a significant amount of our awards go to colleges, universities, and State and local education agencies. These organizations frequently process their procurement actions, things we would otherwise call subcontracts, through their central procurement, as you would have in the State agency, and it is processed on a consolidated, centralized basis. The recipient of the award may be the University of California, but a fair amount of their acquisition would be controlled by the State government's central procurement office.

So the recipient does not have a direct opportunity to reach down into the subcontracting arena.

Mr. MITCHELL. Then you are not saying that the States would set up deliberate policies to exclude small and small disadvantaged business.

Mr. Sullivan. No, not at all.

Mr. Mitchell. That was kind of confusing to me.

Mr. Olmo. I apologize. Their procurement policies are such that it governs the way they subcontract, that is my understanding.

Mr. Mitchell. They are under constraints by the State procurement system which doesn't necessarily say we don't want any small or small disadvantaged business.

Mr. Davin, Los Alamos EXPO I you say was very successful, and you are a very, very competent person, obviously. How did you measure its success?

Mr. Davin. The understanding that I do have is that the engineers and scientists met with many firms to discuss how they could improve their technical capabilities and obtain awards, but we can't show any numbers.

Mr. Mitchell. That is how I measure success.

Mr. Davin. The engineers and scientists feel they communicated useful information. I would have to go out and get you more information on that.

Mr. Mitchell. I have been to so many of these things and there is only one measure of success for me, who got a contract as a result of it. That is the bottom line. It is not a collegial gathering of businesspersons, academicians, it is not a social affair for chocolate, booze, and coffee, but the bottom line should be, did anybody get anything?

I would strongly recommend that you try to set up some kind of mechanism to look at what comes out of all of this expended effort, putting on an EXPO or a trade seminar, it is merely the exchange of information, that is not very successful in my opinion. If you can show that a small business did get a contract when they were linked up one on one, or a small and small disadvantaged business did get one, that is one index of success.

One other question, and then I will let you alone. In your statement, you said, "As requested, we have provided the subcommittee copies of subcontract plans for specific contracts."

This exercise brought to our attention that some of your contractors have some deficient or nonexistent plans. In your supplement to the statement, you indicate that during the period 1981–83, contracts for $43 million were let, $43 million, without any plans at all.

The law was 6 years old. How do you explain this kind of violation of the law?

Mr. Davin. Sir, there is no excuse for it. The law must be followed; both John and I were very disturbed. We did not pick it up through earlier reviews. We considered it serious enough to put together a plan to be sure that this type of thing does not happen in the future.

Last Tuesday, we met with the Secretary, Mr. Hodel. We told him about these findings. He was very disturbed, to say the least.

Mr. Mitchell. He should have been irate.

Mr. Davin. He didn't like it, put it that way. He said, although he recognized we had good dollar figures, that there is no excuse for not following the law and that he expected every office, every contracting officer to follow the law, and he made it clear to John and I, that we had the job of going out and making sure that this is what happened.

As a result of this, we are doing several things. We had already advised the people in the field where we had problems, start fixing them, and found some of the answers that you have here.

In addition, we are following that up in writing in the next few days with a letter first of all, reiterating the problems that they had, asking for a full explanation of the manager of the office, why did this happen. To be sure we really know what is going on out there, we are getting a computer run of a random sample of contracts that should have plans below the dollar level of the sample we sent to your committee. We will request approximately another 200 plans which, when combined with your sample, would be about two-thirds of our total plans. We will analyze the responses from the field very carefully. We will determine from our review if our policies need changing.

If a given office is having a problem, we will take action. We have the Secretary's full support if we run into any problems in implementing this.

Mr. MITCHELL. Everybody sort of snickered when I said, is the country falling apart. Is our Government running efficiently, and yet, when you hear agency after agency, I wonder. This is the fifth hearing, and we have heard the same thing again and again.

We have heard it from everybody. We didn't know this was happening. Somehow or another, we slipped on this, and it really causes me to raise some questions, if you hear it that often, it causes me to raise some serious questions about the efficiency of Government, if not the efficiency of Government, the degree of commitment to these programs and I have such an intense interest in them.

Well, I did not go over to vote on the NASA conference report. I would have voted no, and I just didn't bother to vote rather than act ugly but I think it is really my responsibility as chairman of the subcommittee to start talking to the Members of Congress and suggesting to them that based on these kinds of findings, that they ought to seriously consider scrutinizing more carefully both authorizations and appropriations, at least for the agencies that have appeared before us.

Thank you very much, gentlemen. I appreciate your being here. The hearing is now concluded.

[Whereupon, at 12:35 p.m., the subcommittee adjourned to reconvene subject to call of the Chair.]

APPENDIX

Public Law 95-507
95th Congress

An Act

To amend the Small Business Act and the Small Business Investment Act of 1958.

Oct. 24, 1978
[H.R. 11318]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Act and Small Business Investment Act of 1958, amendment.

TITLE I—AMENDMENTS TO THE SMALL BUSINESS INVESTMENT ACT OF 1958

CHAPTER 1

Purchase and guarantee operations.
15 USC 683.

SEC. 101. Section 303(c)(1) of the Small Business Investment Act of 1958 is amended to read as follows:

"(1) shares of nonvoting stock (or other corporate securities having similar characteristics), provided—

"(i) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum;

"(ii) on liquidation of redemption the Administration is entitled to the preferred payment of the par value of such securities; and prior to any distribution (other than to the Administration) the Administration shall be paid any amounts as may be due pursuant to subparagraph (i) of this paragraph;

"(iii) the purchase price shall be at par value and, in any one sale, $50,000 or more; and

"(iv) the amount of such securities purchased and outstanding at any one time shall not exceed—

"(A) from a company licensed on or before October 13, 1971, 200 per centum of the combined private paid-in capital and paid-in surplus of such company, or

"(B) from any such company licensed after October 13, 1971, and having a combined paid-in capital and paid-in surplus of less than $500,000, 100 per centum of such capital and surplus, or

"(C) from any such company licensed after October 13, 1971, and having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus.

"The amount of such securities purchased by the Administration in excess of 100 per centum of such capital and surplus from any company described in clause (A) or (C) may not exceed an amount equal to the amount of its funds invested in or legally committed to be invested in equity securities. For the purposes of the subsection, the term 'equity securities' means stock of any class (including preferred stock) or limited partnership interests, or shares in a syndicate, business trust, joint stock company or association, mutual corporation, cooperative or other joint ventures for profit, or unsecured debt instruments which are subordinated by their terms to all other borrowings of the issuer.".

"Equity securities."

SEC. 102. The last sentence of section 308(b) of the Small Business Investment Act of 1958 is amended to read as follows: "Such com-

15 USC 687.

panies are authorized to invest funds not reasonably needed for their operations in direct obligations of, or obligations guaranteed as to principal and interest by, the United States, or in certificates of deposit maturing within one year or less, issued by any institution the accounts of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or in savings accounts of such institutions.".

Repeal.
15 USC 687i.

SEC. 103. The last sentence of section 317 of the Small Business Investment Act of 1958 is repealed.

15 USC 681.

SEC. 104. Section 301(d) of the Small Business Investment Act of 1958 is amended by inserting "or formed as a limited partnership," immediately after "statutes,".

Capital requirements for small business investment companies.
15 USC 682.

SEC. 105. Section 302(a) of the Small Business Investment Act of 1958 is amended to read as follows:

"SEC. 302(a). The combined private paid-in capital and paid-in surplus of any company licensed pursuant to sections 301(c) and (d) of this Act shall not be less than $150,000: *Provided, however*, That the combined private paid-in capital and paid-in surplus of any company licensed on or after October 1, 1979 pursuant to sections 301(c) and (d) of this Act shall be not less than $500,000. In all cases, such capital and surplus shall be adequate to assure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with its articles.".

CHAPTER 2

15 USC 694a.

SEC. 110. Section 410(4) of the Small Business Investment Act of 1958 is amended by—

(1) deleting the word "or" after the phrase "conditions of the contract,"; and

(2) deleting the period after the phrase "fails to make prompt payment" and inserting in lieu thereof ", or (D) is an agent, independent agent, underwriter, or any other company or individual empowered to act on behalf of such person.".

Surety bond guarantees.
15 USC 694b.

SEC. 111. Section 411 of the Small Business Investment Act of 1958 is amended to read as follows:

"SEC. 411. (a) The Administration may, upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety (the terms and conditions of said guarantees and commitments may vary from surety to surety on the basis of the Administration's experience with the particular surety) against loss, as hereinafter provided, as the result of a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary and coterminous therewith, by a principal on any contract up to $1,000,000, subject to the following conditions:

"(1) the person who would be the principal of the bond is a small business concern;

"(2) the bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon;

"(3) such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section;

"(4) the Administration determines that there is a reasonable expectation that such person will perform the covenants and conditions of the contract with respect to which the bond is required;

"(5) the contract meets requirements established by the Administration for feasibility of successful completion and reasonableness of cost; and

"(6) the terms and conditions of any bond guaranteed under the authority of this part are reasonable in light of the risks involved and the extent of the surety's participation.

"(b) Subject to the provisions of this section, in connection with the issuance by the Administration of a guarantee to a surety as provided by subsection (a), the Administration may agree to indemnify such surety against a loss sustained by such surety in avoiding or attempting to avoid a breach of the terms of a bond guaranteed by the Administration pursuant to subsection (a): *Provided, however*—

"(1) prior to making any payment under this subsection, the Administration shall first determine that a breach of the terms of such bond was imminent;

Limitation.

"(2) no payment by the Administration pursuant to this subsection shall exceed 10 per centum of the contract price unless the Administrator determines that a greater payment should be made as a result of a finding by the Administrator that the surety's loss sustained in avoiding or attempting to avoid such breach was necessary and reasonable; and

"(3) no new agreements to indemnify shall be entered into pursuant to this subsection subsequent to two years after the date of its enactment.

Limitation.

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 per centum of the loss incurred and paid by the surety to or on behalf of the obligee, or to labor and materialmen, in fulfilling the terms of the contract as the result of the breach; or (2) in a case to which subsection (b) applies, the amount determined under subsection (b).

Regulations.

"(d) The Administration may establish and periodically review regulations for participating sureties which shall require such sureties to meet Administration standards for underwriting, claim practices, and loss ratios.

"(e) Pursuant to any such guarantee or agreement, the Administration shall reimburse the surety, as provided in subsection (c) of this section, except that the Administration shall be relieved of all liability if—

"(1) the surety obtained such guarantee or agreement, or applied for such reimbursement, by fraud or material misrepresentation, or

"(2) the total contract amount at the time of execution of the bond or bonds exceeds $1,000,000.

"(f) The Administration may, upon such terms and conditions as it may prescribe, adopt a procedure for reimbursing a surety for its paid losses billed each month, based upon prior monthly payments to such surety, with subsequent adjustments after such disbursement.

Audit.

"(g) The Administration may at all reasonable times audit in the offices of a participating surety all documents, files, books, records, and other material relevant to the Administration's guarantee, commitments to guarantee, or agreements to indemnify any surety pursuant to this section.

Administration.

"(h) The Administration shall administer this Part on a prudent and economically justifiable basis and establish such fee or fees for small business concerns and premium or premiums for sureties as it deems reasonable and necessary, to be payable at such time and under such conditions as may be determined by the Administration.

15 USC 693.

"(i) The provisions of section 402 shall apply in the administration of this section.".

Community injection funds. 15 USC 696.

SEC. 112. Section 502 of the Small Business Investment Act of 1958 is amended by adding at the end of paragraph (4) the following new sentence: "Community injection funds may be derived, in whole or in part, from—

"(A) State or local governments;

"(B) banks or other financial institutions;

"(C) foundations or other not-for-profit institutions; or

"(D) a small business concern (or its owners, stockholders, or affiliates) receiving assistance through bodies authorized under this title.".

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT

CHAPTER 1

15 USC 631.

SEC. 201. Section 2 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(e)(1) with respect to the Administration's business development programs the Congress finds—

"(A) that the opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic equality for such persons and improve the functioning of our national economy;

"(B) that many such persons are socially disadvantaged because of their identification as members of certain groups that have suffered the effects of discriminatory practices or similar invidious circumstances over which they have no control;

"(C) that such groups include, but are not limited to, Black Americans, Hispanic Americans, Native Americans, and other minorities;

"(D) that it is in the national interest to expeditiously ameliorate the conditions of socially and economically disadvantaged groups;

"(E) that such conditions can be improved by providing the maximum practicable opportunity for the development of small business concerns owned by members of socially and economically disadvantaged groups;

"(F) that such development can be materially advanced through the procurement by the United States of articles, equipment, supplies, services, materials, and construction work from such concerns; and

"(G) that such procurements also benefit the United States by encouraging the expansion of suppliers for such procurements, thereby encouraging competition among such suppliers and promoting economy in such procurements.

Post, p. 1761.

"(2) It is, therefore, the purpose of section 8(a) to—

"(A) foster business ownership by individuals who are both socially and economically disadvantaged;

"(B) promote the competitive viability of such firms by providing such available contract, financial, technical, and management assistance as may be necessary; and

"(C) clarify and expand the program for the procurement by the United States of articles, equipment, supplies, services, materials, and construction work from small business concerns owned by socially and economically disadvantaged individuals.".

Procurement contracts.

Sec. 202. (a) Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended to read as follows:

"Sec. 8. (a)(1) It shall be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary or appropriate—

"(A) to enter into contracts with the United States Government and any department, agency, or officer thereof having procurement powers obligating the Administration to furnish articles, equipment, supplies, services, or materials to the Government or to perform construction work for the Government. In any case in which the Administration certifies to any officer of the Government having procurement powers that the Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer, such officer shall be authorized in his discretion to let such procurement contract to the Administration upon such terms and conditions as may be agreed upon between the Administration and the procurement officer. Whenever the Administration and such procurement officer fail to agree, the matter shall be submitted for determination to the Secretary or the head of the appropriate department or agency by the Administrator;

"(B) to enter into contracts with such agency, as shall be designated by the President within 60 days after the effective date of this paragraph, to furnish articles, equipment, supplies, services, or materials, or to perform construction work for such agency. In any case in which the Administration certifies to any officer of such agency having procurement powers that the Administration is competent and responsible to perform any specific procurement contract to be let by any such officer, such officer shall let such procurement contract to the Administration upon such terms and conditions as may be agreed upon between the Administration and the procurement officer. If the Administration and such procurement officer fail to agree on such terms and conditions, either the Administration or such officer shall promptly notify, in writing, the head of such agency. The head of such agency shall have five days (exclusive of Saturdays, Sundays, and legal holidays) to establish the terms and conditions upon which such procurement contract may be let to the Administration, and shall communicate in writing to the Administration the terms and conditions so established. Within five days (exclusive of Saturdays, Sundays, and legal holidays) after the receipt of such written communication, the Administration shall decide whether to perform such procurement contract or withdraw its prior certification that the Administration is competent and responsible to perform such contract; and

"(C) to arrange for the performance of such procurement contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns for construction work, services, or the manufacture, supply, assembly of such articles, equipment, supplies, materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Administration to perform such contracts.

"No contract may be entered into under subparagraph (B) after September 30, 1980.

Performance bonds.

"(2) Notwithstanding subsections (a) and (c) of the first section of the Act entitled 'An Act requiring contracts for the construction, alteration, and repair of any public building or public work of the United States to be accompanied by a performance bond protecting the United States and by additional bond for the protection of persons furnishing material and labor for the construction, alteration, or repair of said public buildings or public work,' approved August 24, 1935 (49 Stat. 793), no small business concern shall be required to provide any amount of any bond as a condition of receiving any subcontract under this subsection if the Administrator determines that such amount is inappropriate for such concern in performing such contract: *Provided*, That the Administrator shall exercise the authority granted by the paragraph only if—

"(A) the Administration takes such measures as it deems appropriate for the protection of persons furnishing materials and labor to a small business receiving any benefit pursuant to this paragraph;

"(B) the Administration assists, insofar as practicable, a small business receiving the benefits of this paragraph to develop, within a reasonable period of time, such financial and other capability as may be needed to obtain such bonds as the Administration may subsequently require for the successful completion of any program conducted under the authority of this subsection;

"(C) the Administration finds that such small business is unable to obtain the requisite bond or bonds from a surety and that no surety is willing to issue such bond or bonds subject to the guarantee provisions of Title IV of the Small Business Investment Act of 1958; and

"(D) the small business is determined to be a start-up concern and such concern has not been participating in any program conducted under the authority of this subsection for a period exceeding one year.

"This paragraph shall not apply after September 30, 1980.

"(3) Any small business concern selected by the Administration to perform any Federal Government procurement contract to be let pursuant to this subsection shall, when practicable, participate in any negotiation of the terms and conditions of such contract.

"Socially and economically disadvantaged small business concern."

"(4) For purposes of this section, the term 'socially and economically disadvantaged small business concern' means any small business concern—

"(A) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

"(B) whose management and daily business operations are controlled by one or more of such individuals.

"Socially disadvantaged individuals."

"(5) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

"Economically disadvantaged individuals."

"(6) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities the Administration shall consider, but not be limited to, the assets and net worth of such socially disadvantaged individual.

"(7) No small business concern shall be deemed eligible for any assistance pursuant to this subsection unless the Administration determines that with contract, financial, technical, and management support the small business concern will be able to perform contracts which may be awarded to such concern under paragraph (1)(C) and has reasonable prospects for success in competing in the private sector.

Determinations.

"(8) All determinations made pursuant to paragraphs (4), (5), (6) and (7), shall be made by the Associate Administrator for Minority Small Business and Capital Ownership Development.

Publication in Federal Register.

"(9) Within ninety days after the effective date of this paragraph, the Administration shall publish in the Federal Register rules setting forth those conditions or circumstances pursuant to which a firm previously deemed eligible by the Administration may be denied assistance under the provisions of this subsection: *Provided*, That no such firm shall be denied total participation in any program conducted under the authority of this subsection without first being afforded a hearing on the record in accordance with chapter 5 of title 5, United States Code.

"(10) The Administration shall develop and implement an outreach program to inform and recruit small business concerns to apply for eligibility for assistance under this subsection.

"(11) To the maximum extent practicable, construction subcontracts awarded by the Administration pursuant to this subsection shall be awarded within the county or State where the work is to be performed.

Annual estimate.

"(12) To the maximum extent practicable the Associate Administrator for Minority Small Business and Capital Ownership Development shall submit, no less frequently than annually, a yearly estimate of the dollar amounts and types of contracts required for the efficient use of any program conducted under the authority of this subsection, to each agency which may participate in such program.".

Report to Congress.
Ante, p. 1761.
Ante, p. 1760.

(b) Not later than June 30, 1980, the General Accounting Office shall submit to the Congress a report which, with respect to provisions of paragraphs (1)(B) and (2) of section 8(a) of the Small Business Act, shall evaluate the implementation of such provisions and whether such implementation furthered the purposes under section 2(e) of the Small Business Act.

15 USC 631.

SEC. 203. Section 2(c) of the Small Business Act is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

Post, p. 1764.

"(2)(A) With respect to the programs authorized by section 7(j) of this Act, the Congress finds—

"(i) that ownership and control of productive capital is concentrated in the economy of the United States and certain groups, therefore, own and control little productive capital;

"(ii) that certain groups in the United States own and control little productive capital because they have limited opportunities for small business ownership;

"(iii) that the broadening of small business ownership among groups that presently own and control little productive capital is essential to provide for the well-being of this Nation by promoting their increased participation in the free enterprise system of the United States;

"(iv) that such development of business ownership among groups that presently own and control little productive capital will be greatly facilitated through the creation of a small business ownership development program, which shall provide services, including, but not limited to, financial, management, and technical assistance.

Ante, p. 1761.

"(v) that the power to let sole source Federal contracts pursuant to section 8(a) of the Small Business Act can be an effective procurement assistance tool for development of business ownership among groups that own and control little productive capital; and

"(vi) that the procurement authority under section 8(a) of the Small Business Act shall be used only as a tool for developing business ownership among groups that own and control little productive capital.

Infra.

"(B) It is, therefore, the purpose of the programs authorized by section 7(j) of this Act to—

"(i) foster business ownership by individuals in groups that own and control little productive capital; and

"(ii) promote the competitive viability of such firms by creating a small business and capital ownership development program to provide such available financial, technical, and management assistance as may be necessary.".

Sec. 204. Section 7(j) of the Small Business Act is amended to read as follows:

Technical and management assistance.

"(j)(1) The Administration shall provide financial assistance to public or private organizations to pay all or part of the cost of projects designed to provide technical or management assistance to individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of this Act, with special attention to small businesses located in areas of high concentration of unemployed or low-income individuals, to small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

"(2) Financial assistance under this subsection may be provided for projects, including, but not limited to—

"(A) planning and research, including feasibility studies and market research;

"(B) the identification and development of new business opportunities;

"(C) the furnishing of centralized services with regard to public services and Federal Government programs including programs authorized under sections 7(i), (7)(j)(10), and 8(a) of this Act;

"(D) the establishment and strengthening of business service agencies, including trade associations and cooperatives; and

"(E) the furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing business, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

Subcontract placement with businesses located in certain areas.

"(3) The Administration shall encourage the placement of subcontracts by businesses with small business concerns located in areas of high concentration of unemployed or low-income individuals, with small businesses owned by low-income individuals, and with small

Ante, p. 1761.

businesses eligible to receive contracts pursuant to section 8(a) of this Act. The Administration may provide incentives and assistance to such businesses that will aid in the training and upgrading of potential subcontractors or other small business concerns eligible for assistance under sections 7(i), 7(j), and 8(a) of this Act.

15 USC 636.
Ante, p. 1764.
Advisory committee, establishment.
Membership.

"(A) An advisory committee composed of five high-level officers from five United States businesses and five representatives of minority small businesses shall be created to facilitate the achievement of the purposes of this paragraph. The members of the advisory committee shall be appointed by the President. The chairman of the advisory committee, who shall be designated by the President shall report annually to the President and to the Congress on the activities of the advisory committee.

Report to Congress.

"(B) The General Accounting Office shall evaluate the activities taken by the Administration to achieve the purpose of this paragraph and evaluate the success of these activities in achieving the purposes of this paragraph. The General Accounting Office shall report to the Congress by January 1, 1981, and at any time thereafter at the discretion of the Comptroller General, on the findings of this evaluation and shall make recommendations on actions needed to improve the Administration's performance pursuant to this paragraph.

"(4) The Administration shall give preference to projects which promote the ownership, participation in ownership, or management of small businesses owned by low-income individuals and small businesses eligible to receive contracts pursuant to section 8(a) of this Act.

Grants and contracts.

"(5) The financial assistance authorized for projects under this subsection includes assistance advanced by grant, agreement, or contract.

"(6) The Administration is authorized to make payments under grants and contracts entered into under this subsection in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants, with necessary adjustments on account of overpayments or underpayments.

"(7) To the extent feasible, services under this subsection shall be provided in a location which is easily accessible to the individuals and small business concerns served.

Program evaluation.

"(8) The General Accounting Office shall provide for an independent and continuing evaluation of programs under sections 7(i), 7(j), and 8(a) of this Act, including full information on, and analysis of, the character and impact of managerial assistance provided, the location, income characteristics, and extent to which private resources and skills have been involved in these programs. Such evaluation together with any recommendations deemed advisable by the Comptroller General shall be reported to the Congress by January 1, 1981, and at any time thereafter at the discretion of the Comptroller General.

Report to Congress.

"(9) The Administration shall take such steps as may be necessary and appropriate, in coordination and cooperation with the heads of other Federal departments and agencies, to insure that contracts, subcontracts, and deposits made by the Federal Government or with programs aided with Federal funds are placed in such way as to further the purposes of sections 7(i), 7(j), and 8(a) of this Act.

Small business and capital ownership development program, establishment.

"(10) There is established within the Administration a small business and capital ownership development program (hereinafter referred to as the 'Program') which shall provide assistance exclusively for small business concerns eligible to receive contracts pursuant to section 8(a) of this Act. The management of the Program shall be vested in the Associate Administrator for Minority Small

Business and Capital Ownership Development who shall also manage all other services and activities authorized under sections 7(j) and 8(a) of this Act.

Ante, pp. 1764, 1761.

"(A) The Program shall—

"(i) assist small business concerns participating in the Program to develop comprehensive business plans with specific business targets, objectives, and goals;

"(ii) provide for such other nonfinancial services as deemed necessary for the establishment, preservation, and growth of small business concerns participating in the Program, including but not limited to (I) loan packaging, (II) financial counseling, (III) accounting and bookkeeping assistance, (IV) marketing assistance, and (V) management assistance;

"(iii) assist small business concerns participating in the Program to obtain equity and debt financing;

"(iv) establish regular performance monitoring and reporting systems for small business concerns participating in the Program to assure compliance with their business plans;

"(v) analyze and report the causes of success and failure of small business concerns participating in the Program; and

"(vi) provide assistance necessary to help small business concerns participating in the Program to procure surety bonds, with such assistance including, but not limited to, (I) the preparation of application forms required to receive a surety bond, (II) special management and technical assistance designed to meet the specific needs of small business concerns participating in the Program and which have received or are applying to receive a surety bond, and (III) preparation of all forms necessary to receive a surety bond guarantee from the Administration pursuant to title IV, part B of the Small Business Investment Act of 1958.

15 USC 694a.

"(B) Small business concerns eligible to receive contracts pursuant to section 8(a) of this Act shall participate in the Program.

"(C) No small business concern shall receive a contract pursuant to section 8(a) of this Act unless the Program is able to provide such small business concern with, but not limited to, such management, technical, and financial services as may be necessary to promote the competitive viability of the small business concern within a reasonable period of time.

Responsibilities.

"(11) The Associate Administrator for Minority Small Business and Capital Ownership Development shall be responsible for coordinating and formulating policies relating to Federal assistance to small business concerns eligible for assistance under section 7(i) of this Act and small business concerns eligible to receive contracts pursuant to section 8(a) of this Act.".

Sec. 205. Section 7(k) of the Small Business Act is amended by striking the words "7(i) and 7(j)" and inserting in lieu thereof "7(i), 7(j), and 8(a)".

15 USC 633.

Sec. 206. Section 4(b) of the Small Business Act is amended by striking "Associate Administrator for Minority Small Business" where it appears therein and by substituting the following: "Associate Administrator for Minority Small Business and Capital Ownership Development".

15 USC 647 note.

SEC. 207. Nothing in this chapter is intended to duplicate or limit any programs or projects administered by the Department of Commerce.

CHAPTER 2

Contract opportunities for certain small business concerns.
15 USC 637.

SEC. 211. Section 8(d) of the Small Business Act is amended to read as follows:

"(d)(1) It is the policy of the United States that small business concerns, and small business concerns owned and controlled by socially and economically disadvantaged individuals, shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

"(2) The clause stated in paragraph (3) shall be included in all contracts let by any Federal agency except any contract which—

"(A) does not exceed $10,000;

"(B) including all subcontracts under such contracts will be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; or

"(C) is for services which are personal in nature.

"(3) The clause required by paragraph (2) shall be as follows:

"'(A) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.

"'(B) The contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this contract. The contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the contractor's compliance with this clause.

Definitions.
15 USC 632.

"'(C) As used in this contract, the term "small business concern" shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern—

"'(i) which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

"'(ii) whose management and daily business operations are controlled by one or more of such individuals.

"'The contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act.

"'(D) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.'

"(4)(A) Each solicitation of an offer for a contract to be let by a Federal agency which is to be awarded pursuant to the negotiated method of procurement and which may exceed $1,000,000, in the case of a contract for the construction of any public facility, or $500,000, in the case of all other contracts, shall contain a clause notifying potential offering companies of the provisions of this subsection relating to contracts awarded pursuant to the negotiated method of procurement.

"(B) Before the award of any contract to be let, or any amendment or modification to any contract let, by any Federal agency which—

"(i) is to be awarded, or was let, pursuant to the negotiated method of procurement,

"(ii) is required to include the clause stated in paragraph (3),

"(iii) may exceed $1,000,000 in the case of a contract for the construction of any public facility, or $500,000 in the case of all other contracts, and

"(iv) which offers subcontracting possibilities,

the apparent successful offeror shall negotiate with the procurement authority a subcontracting plan which incorporates the information prescribed in paragraph (6). The subcontracting plan shall be included in and made a material part of the contract.

"(C) If, within the time limit prescribed in regulations of the Federal agency concerned, the apparent successful offeror fails to negotiate the subcontracting plan required by this paragraph, such offeror shall become ineligible to be awarded the contract. Prior compliance of the offeror with other such subcontracting plans shall be considered by the Federal agency in determining the responsibility of that offeror for the award of the contract.

"(D) No contract shall be awarded to any offeror unless the procurement authority determines that the plan to be negotiated by the offeror pursuant to this paragraph provides the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of the contract.

Incentives for small business subcontracting.

"(E) Notwithstanding any other provision of law, every Federal agency, in order to encourage subcontracting opportunities for small business concerns and small business concerns owned and controlled by the socially and economically disadvantaged individuals as defined in paragraph (3) of this subsection, is hereby authorized to provide such incentives as such Federal agency may deem appropriate in order to encourage such subcontracting opportunities as may be commensurate with the efficient and economical performance of the contract: *Provided*, That, this subparagraph shall apply only to contracts let pursuant to the negotiated method of procurement.

Subcontracting plans.

"(5)(A) Each solicitation of a bid for any contract to be let, or any amendment or modification to any contract let, by any Federal agency which—

"(i) is to be awarded pursuant to the formal advertising method of procurement,

"(ii) is required to contain the clause stated in paragraph (3) of this subsection,

"(iii) may exceed $1,000,000 in the case of a contract for the construction of any public facility, or $500,000, in the case of all other contracts, and

"(iv) offers subcontracting possibilities,

shall contain a clause requiring any bidder who is selected to be awarded a contract to submit to the Federal agency concerned a subcontracting plan which incorporates the information prescribed in paragraph (6).

"(B) If, within the time limit prescribed in regulations of the Federal agency concerned, the bidder selected to be awarded the contract fails to submit the subcontracting plan required by this paragraph, such bidder shall become ineligible to be awarded the contract. Prior compliance of the bidder with other such subcontracting plans shall be considered by the Federal agency in determining the responsibility of such bidder for the award of the contract. The subcontracting plan of the bidder awarded the contract shall be included in and made a material part of the contract.

"(6) Each subcontracting plan required under paragraph (4) or (5) shall include—

"(A) percentage goals for the utilization as subcontractors of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals;

"(B) the name of an individual within the employ of the offeror or bidder who will administer the subcontracting program of the offeror or bidder and a description of the duties of such individual;

"(C) a description of the efforts the offeror or bidder will take to assure that small business concerns and small business concerns owned and controlled by the socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;

"(D) assurances that the offeror or bidder will include the clause required by paragraph (2) of this subsection in all subcontracts which offer further subcontracting opportunities, and that the offeror or bidder will require all subcontractors (except small business concerns) who receive subcontracts in excess of $1,000,000 in the case of a contract for the construction of any public facility, or in excess of $500,000 in the case of all other contracts, to adopt a plan similar to the plan required under paragraph (4) or (5);

"(E) assurances that the offeror or bidder will submit such periodic reports and cooperate in any studies or surveys as may be required by the Federal agency or the Administration in order to determine the extent of compliance by the offeror or bidder with the subcontracting plan; and

"(F) a recitation of the types of records the successful offeror or bidder will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in this plan, including the establishment of source lists of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns.

"(7) The provisions of paragraphs (4), (5), and (6) shall not apply to offerors or bidders who are small business concerns.

Breach of contract.

"(8) The failure of any contractor or subcontractor to comply in good faith with—

"(A) the clause contained in paragraph (3) of this subsection, or

"(B) any plan required of such contractor pursuant to the authority of this subsection to be included in its contract or subcontract,

shall be a material breach of such contract or subcontract.

"(9) Nothing contained in this subsection shall be construed to supersede the requirements of Defense Manpower Policy Number 4A (32A CFR Chap. 1) or any successor policy.

"(10) In the case of contracts within the provisions of paragraphs (4), (5), and (6), the Administration is authorized to—

"(A) assist Federal agencies and businesses in complying with their responsibilities under the provisions of this subsection, including the formulation of subcontracting plans pursuant to paragraph (4);

Review.

"(B) review any solicitation for any contract to be let pursuant to paragraphs (4) and (5) to determine the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate as subcontractors in the performance of any contract resulting from any solicitation, and to submit its findings, which shall be advisory in nature, to the appropriate Federal agency; and

Subcontracting plans, compliance evaluation.

"(C) evaluate compliance with subcontracting plans, either on a contract-by-contract basis, or in the case contractors having multiple contracts, on an aggregate basis.

Report to congressional committees.

"(11) At the conclusion of each fiscal year, the Administration shall submit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives a report on subcontracting plans found acceptable by any Federal agency which the Administration determines do not contain maximum practicable opportunities for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts described in this subsection.".

CHAPTER 3

15 USC 644.

SEC. 221. Section 15 of the Small Business Act is amended by adding at the end of subsection (f) the following new subsections:

"(g) The head of each Federal agency shall, after consultation with the Administration, establish goals for the participation by small business concerns, and by small business concerns owned and controlled by socially and economically disadvantaged individuals, in procurement contracts of such agency having values of $10,000 or more. Goals established under this subsection shall be jointly established by the Administration and the head of each Federal agency and shall realistically reflect the potential of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to perform such contracts and to perform subcontracts under such contracts. Whenever the Administration and the head of any Federal agency fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination.

Reports to Small Business Administration.

"(h) At the conclusion of each fiscal year, the head of each Federal agency shall report to the Administration on the extent of participation by small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals in procurement contracts of such agency. Such reports shall contain appropriate justifications for failure to meet the goals established under subsection (g) of this section. The Administration shall submit to the Select Committee on Small Business of the Senate and

Submittal of information to congressional committees.

the Committee on Small Business of the House of Representatives information obtained from such reports, together with appropriate comments.

"(i) Nothing in this Act or any other provision of law precludes exclusive small business set-asides for procurements of architectural and engineering services, research, development, test and evaluation, and each Federal agency is authorized to develop such set-asides to further the interests of small business in those areas.

Small purchase procedures.

"(j) Each contract for the procurement of goods and services which has an anticipated value of less than $10,000 and which is subject to small purchase procedures shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and in terms of quality and delivery of the goods or services being purchased. In utilizing small purchase procedures, contracting officers shall, wherever circumstances permit, choose a method of payment which minimizes paperwork and facilitates prompt payment to contractors.

Office of Small and Disadvantaged Business Utilization, establishment.

"(k) There is hereby established in each Federal agency having procurement powers an office to be known as the 'Office of Small and Disadvantaged Business Utilization'. The management of each such office shall be vested in an officer or employee of such agency who shall—

"(1) be known as the 'Director of Small and Disadvantaged Business Utilization' for such agency,

"(2) be appointed by the head of such agency,

"(3) be responsible only to, and report directly to, the head of such agency or to his deputy,

15 USC 637, 644.

"(4) be responsible for the implementation and execution of the functions and duties under sections 8 and 15 of this Act which relate to such agency,

"(5) have supervisory authority over personnel of such agency to the extent that the functions and duties of such personnel relate to functions and duties under sections 8 and 15 of this Act,

"(6) assign a small business technical adviser to each office to which the Administration has assigned a procurement center representative—

"(A) who shall be a full-time employee of the procuring activity and shall be well qualified, technically trained and familiar with the supplies or services purchased at the activity, and

"(B) whose principal duty shall be to assist the Administration procurement center representative in his duties and functions relating to sections 8 and 15 of this Act, and

"(7) cooperate, and consult on a regular basis, with the Administration with respect to carrying out the functions and duties described in paragraph (4) of this subsection.

"This subsection shall not apply to the Administration.".

Uniform Federal procurement regulations and procedures.
41 USC 405a.
41 USC 401 note.

SEC. 222. The Administrator of the Office of Federal Procurement Policy is authorized and directed, pursuant to the authority conferred by Public Law 93-400 and subject to the procedures set forth in such Public Law, to promulgate a single, simplified, uniform Federal procurement regulation and to establish procedures for insuring compliance with such provisions by all Federal agencies. In formulating such regulations and procedures the Administrator of the Office of Federal Procurement Policy shall, in consultation with the Small Business Administration, conduct analyses of the impact on small business concerns resulting from revised procurement regulations, and incorporate into revised procurement regulations simplified bidding, contract performance, and contract administration procedures for small business concerns.

Information availability. 15 USC 637b.

SEC. 223. (a) For any contract to be let by any Federal agency, such agency shall provide to any small business concern upon its request—

(1) a copy of bid sets and specifications with respect to such contract;

(2) the name and telephone number of an employee of such agency to answer questions with respect to such contract; and

(3) adequate citations to each major Federal law or agency rule with which such business concern must comply in performing such contract.

(b) Subsection (a) shall not apply to any contract or subcontract under such contract which—

(1) will be performed entirely outside any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; or

(2) is for services which are personal in nature.

Definitions. 15 USC 637c.

SEC. 224. (a) For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Small Business Administration;

(2) the term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code, but does not include the United States Postal Service or the General Accounting Office; and

(3) the term "Government procurement contract" means any contract for the procurement of any goods or services by any Federal agency.

15 USC 632.

(b) Section 3 of the Small Business Act is amended by inserting "(a)" after "Sec. 3." and by adding at the end thereof the following new subsection:

"(b) For purposes of this Act, any reference to an agency or department of the United States, and the term 'Federal agency', shall have the meaning given the term 'agency' by section 551(1) of title 5, United States Code, but does not include the United States Postal Service or the General Accounting Office.".

CHAPTER 4

15 USC 636.

SEC. 231. Section 7(a) of the Small Business Act is amended by inserting after the phrase "The Administration is empowered to make loans to enable small-business concerns" the phrase ", or small-business concerns 100 percent owned and controlled by an Indian tribe as defined in section 4(a) of the Indian Self-Determination and Education Assistance Act,".

25 USC 450b. 15 USC 644.

SEC. 232. Section 15(f) of the Small Business Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

Report to congressional committees.

SEC. 233. Section 15 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(l)(1) The President shall, not later than October 1, 1979, transmit to the Select Committee on Small Business and the Committee on Armed Services of the Senate and to the Committee on Small Business and the Committee on Armed Services of the House of Representatives a report on the labor surplus area procurement program under this section and the manpower policy described in subparagraph (D).

Such report, together with recommendations, shall include, but not be limited to—

"(A) an analysis of the effectiveness of such labor surplus area procurement program, including its effectiveness in creating jobs in the areas of high unemployment and the method by which labor markets are classified and designated as labor surplus areas;

"(B) its potential benefits to Federal, State and local governments, including tax benefits, reductions in Federal payments to labor surplus areas, and reductions in State unemployment costs where such information is available;

"(C) its potential costs, including its impact on the efficient utilization of Federal resources, its effect on the local economy of non-labor surplus areas, its impact on small business concerns not in labor surplus areas to the extent such information is available, and its impact on contract costs to the Federal Government; and

"(D) with respect to the implementation by the Department of Defense of Defense Manpower Policy Number 4A (32A CFR Chapter 1) or any successor policy, in addition to the matters required by subparagraphs (A), (B), and (C), information concerning the impact on such matters of the expenditure of any funds which were available for procurement and which were not obligated for expenditure on September 30, 1977.

Approved October 24, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-949 (Comm. on Small Business) and No. 95-1714 (Comm. of Conference).
SENATE REPORTS: No. 95-1070 (Select Comm. on Small Business) and No. 95-1140 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
  Mar. 20, considered and passed House.
  Sept. 15, considered and passed Senate, amended.
  Oct. 6, House agreed to conference report.
  Oct. 10, Senate agreed to conference report.

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